Supreme Court, U. S.
FILED
SEP 10 1979
MICHAEL RODAK, JR., CLERK

79-403

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1979

No. A-1127

OWEN W. CRUMPACKER,

Petitioner,

vs.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION and SAUL I. RUMAN, COMPLAINANT

Respondents.

PETITIONER'S APPENDIX IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF INDIANA

Andrew G. Kohlan, Esq.
236 Rice Creek Blvd.
Fridley, MN 55432
Attorney for Petitioner

APPENDIX A.

Supreme Court of Indiana Order of April 12, 1979 Overruling Petitioner's Motion for Relief From and Reconsideration of the Disciplinary Action Entered on November 29, 1978..... A1

U. S. Supreme Court Order of June 28, 1979 Extending Time to File Petition for Writ of Certiorari..... A3

Indiana Supreme Court's Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendations Filed With the Supreme Court Clerk on November 9, 1976..... A5 - A19

Findings..... A7

Counts I, II, and III..... A7

Count IV A..... A9

Count IV B..... A9

Count V..... A10

Count VI..... A11

Count VII..... A11

Count VIII..... A12

Count IX..... A12

Count X..... A13

Count XI..... A13

Count XII..... A14

Count XIII..... A15

Count XIV..... A15

Count XV..... A16
Count XVI and XVII..... A16
Count XVIII..... A17
Count XIX..... A18
Conclusions and Recommendations..... A18
Per Curiam Disciplinary Action Filed by the Indiana Supreme Court on November 29, 1978 Resulting in the Permanent Disbarment of Petitioner..... A20 - A77
Counts I and II..... A29
Counts III and V..... A33
Count VI..... A38
Counts XI, XII, and XIII..... A39
Count XIV..... A46
Counts IV (A) and IV (B)..... A48
Count IV (B)..... A53
Count VII..... A54
Count VIII..... A55
Count IX..... A57
Count X..... A59
Count XV..... A62
Counts XVI and XVII..... A66
Count XVIII and XIX..... A68
Disbarment Order..... A71
Footnotes..... A72
Indiana Supreme Court Disciplinary Rules... A78
Section 2..... A78
Section 10. Investigatory Procedures... A78

Section 12. Prosecution of Grievances.. A80
Section 13. Hearing Officers..... A80
Section 14. Proceedings Before the Hearing Officers..... A81
Section 14 (d). Duty of Hearing Officer to Weigh the Evidence, Determine Whether Misconduct Has Been Proven, and Submission of the Written Findings of Fact Deduced From the Evidence to the Supreme Court..... A82
Section 15. Supreme Court Review..... A82
Section 15 (c). Necessity of Determination by the Supreme Court as to Whether or Not a Petition for Review Will be Granted..... A83
Section 15 (c). Amendment to A & D Rule 23 Adopted on January 1, 1977 Requiring Parties Seeking a Review to File Transcripts on Alleged Factual Issues..... A84
Excerpts From the Verified First Defense Served and Filed by Petitioner on December 18, 1978 Presenting Substantial Federal Questions Arising Under the Bill of Rights of the U.S. Constitution and Art. I, Bill of Rights, Indana Constitution..... A85

Excerpts From the Verified Motion for
Relief From and Reconsideration of
The Disciplinary Action Entered on
November 29, 1978 Presenting Sub-
stantial Federal Questions to the
Indiana Supreme Court Arising Under
the Due Process and Equal Protection
Clauses of the U.S. Constitution..... A113

APPENDIX

Filed
April 12, 1979

IN THE
SUPREME COURT
OF INDIANA

IN THE MATTER OF)
) Cause No. 974 S 187
OWEN W. CRUMPACKER)

ORDER DENYING
MOTION FOR RELIEF

Comes now the Respondent and tenders for filing his motion for relief and reconsideration of the disciplinary action entered on November 29, 1978.

And this Court, being duly advised, finds that the pleading should be accepted for filing, but further finds that the relief prayed for in this motion should not be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED by this Court that "Respondent Owen W. Crumpacker's Motion for Relief from and Reconsideration of the

Disciplinary Action Entered on November 29, 1978" is hereby DENIED.

DONE at Indianapolis, Indiana, this 12th day of April, 1979.

/s/ Richard M. Given
Richard M. Given
Chief Justice of Indiana

All participating Justices concur.

Pivarnik, J., not participating.

IN THE

SUPREME COURT OF THE UNITED STATES

No. A-1127

OWEN W. CRUMPACKER,

Petitioner,

v.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION, ET AL.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI

Upon Consideration of the application of petitioner, It Is Ordered that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including September 9, 1979.

/s/ John Paul Stevens
Associate Justice of the Supreme
Court of the United States

Dated this 28

day of June, 1979.

IN THE SUPREME COURT
OF THE
STATE OF INDIANA

IN RE: THE MATTER OF)
OWEN W. CRUMPACKER,) 974-S-187
An Attorney)

FINDINGS OF FACT
CONCLUSIONS OF LAW, AND
RECOMMENDATIONS OF HEARING OFFICER

The Indiana Supreme Court Disciplinary Commission filed its Amended Complaint for Disciplinary Action against Owen W. Crumpacker, hereinafter referred to as Respondent, on June 25, 1975. The undersigned was appointed Hearing Officer, qualified and assumed jurisdiction. The Amended Complaint contained 19 Counts. Evidentiary hearing commenced September 29, 1975, and concluded on December 3, 1975. Additional documentary evidence was received up and until the 3rd day of February, 1976. Approximately 31 days were taken up with the evidentiary hearing. Documentary evidence offered and admitted was voluminous. The Disciplinary Commission was represented by Attorneys David B. Hughes and Craig Stevens. Respondent appeared pro se, by counsel Richard A. Miller, and during Respondent's case in chief, by additional counsel John M. Lyons.

As required by law, the Hearing Officer will make findings of material fact, conclusions of law and recommendations. However, before attempting this task, a few preliminary comments and findings

are necessary.

Respondent has practiced law in northern Indiana for over 30 years and until January of 1973, headed the law firm of Crumpacker, Abrahamson and Reed in Hammond, Indiana. The partnership dissolved January 1, 1973; said termination was stormy.

Many of the charges against Respondent can be directly traced to the unsatisfactory partnership termination. There were disputes, and I believe some honest ones, concerning accounts, clients, and pending litigation. These disputes have never been resolved through court action; and the Hearing Officer could not resolve them here.

It was evident from the start that this proceeding wasn't the typical disbarment hearing. For this reason, the Hearing Officer's attitude on the introduction of evidence was liberal. Respondent strongly resented the hearing, which fact made it difficult for all. He honestly believes that many attorneys and Judges are out to crucify him. He further believes that he is one of the few remaining honest attorneys in Lake County, Indiana. Similar to Don Quixote, he attacks the windmills: a crusader.

This case is decided on the merits of each Count. Before undertaking this, it is necessary to note some legal questions which have some merit. Most of these, Respondent discusses in his brief: (A) Questions concerning the

procedures in the investigative stages; (B) Respondent's conduct took place directly in other litigation which is still pending; (C) Partnership disputes have not been resolved; (D) Distinctions between disbarment proceedings and contempt proceedings, and the purposes of both. He believes the "wolf pack" is on the game; this belief has merit. However, his conduct contributed strongly to the situation.

F I N D I N G S

COUNTS I, II, and III:

These charges are connected with the litigation described as Dedelow, Inc. et al -vs- Board of Commissioners of Lake County, et al, Lake Superior Court, Cause No. 171-43, Room 1, Hammond. This litigation was under the Public Lawsuit Statute and was filed in 1971 by Kenneth Reed, law partner in the firm of Crumpacker, Abrahamson and Reed; Respondent was the senior partner of the firm. This basically was Mr. Reed's case and the action was signed by Mr. Reed and also signed in the law firm's name. When the law firm dissolved in January of 1973, the case was pending on appeal; Court of Appeals 871A162. At that time there was no agreement as to who was to proceed with the litigation, nor was there any account of moneys in the litigation. Unsuccessful attempts were made concerning these matters in early 1973 by the former partners and Attorney Fred Donnersberger; who was employed to represent Mr. Kenneth Reed and Mr. Harold Abrahamson in connection with the dis-

solved partnership. Respondent filed a motion for extension of time in which to file an answer brief in the Appellate Court as to who was representing the appellees and therefore, who was entitled to the transcript. Respondent's authority was not challenged by the appellant's attorneys. Various affidavits were filed in the Appellate Court concerning the representation of appellees. The Appellate Court decided this question against the Respondent. The appellees in the lawsuit never specifically authorized Respondent to represent them on appeal. Because time was of the essence, it was Respondent's position he must make every effort to perfect the appeal; he did not wish any clients to suffer because of the partnership disputes. After the Court of appeals decision, Respondent made no further attempts to represent appellees.

The Hearing Officer finds for Respondent on Counts I and II. There was no intentional violation of DR1-102A (1), (4), (5) and (6).

Count III concerns disclosures of "confidences and secrets" of one Richard Klaas. These were supposedly disclosed in Respondent's motion filed before the Court of Appeals. Although the evidence is conflicting, the greater weight of it shows that Respondent received no confidential information from Richard Klaas. Respondent did, in fact, believe the motion which he filed in the Appellate Court. He was attempting to disclose an alleged fraud as a judicial officer. This Count is closely connected with the

partnership termination.

The Hearing Officer finds for Respondent; there is no intentional violation of DR1-102A.

COUNT IV A:

Prior to the termination of the law firm, a Probate estate was opened for Robert C. Croner by Kenneth Reed. When the firm dissolved, there was a dispute concerning this estate. These disputes have not been resolved by the Probate Court; nor have they been resolved in a lawsuit concerning the dissolution of the partnership. The Administratrix did make a demand upon Respondent for the Croner estate file. Respondent refused this demand until there was an accounting by his former partners. The Administratrix did not demand any particular papers in the file.

The Administratrix was not entitled to the entire file; she does not own it. Respondent's conduct did not violate DR1-102A (1), (5) and (6), nor DR9-102B (3) and (4). This dispute should be decided by the Court which has jurisdiction of the estate.

COUNT IV B:

In 1968, a condemnation lawsuit was filed entitled State of Indiana -vs- Abe Kushner, et al, 68-PSC-657 in Porter County, Indiana. Respondent's firm represented the landowners; a written agreement concerning the employment was entered into on August 27, 1968. Res-

pondent did the work in this lawsuit and, by agreement with his clients, the firm received $70,000 after the appraisers award was paid into court. The suit was eventually venued to LaPorte Circuit Court. In the spring of 1974, Respondent and his clients had a disagreement after which the clients demanded the firm's files and the prepaid contingent fee of $70,000. Respondent refused this demand. Subsequently, in March of 1975, this dispute came before the LaPorte Circuit Court, which ordered the Respondent to turn over certain papers and make an accounting. The condemnation lawsuit has never been tried and an appeal is pending concerning the LaPorte Circuit Court's turn over and accounting order.

Based on these findings, the Hearing Officer finds that Respondent did not violate DR1-102A (1), (5) and (6); DR2-110B (4); DR2-110A (3), nor DR9-102B (3) and (4). The evidence shows an honest, good faith dispute between respondent and these clients in that particular lawsuit.

COUNT V:

In July of 1975, Respondent filed an action in Lake Superior Court, Room 5, Hammond, Cause No. 573-448. The suit was to set aside a fraudulent judgment. It was a class action against approximately 40 defendants, including one Richard Klaas. Respondent never personally represented Mr. Klaas. This case is presently pending on appeal, Court of Appeals Cause No. 3174A15. The theory

of the lawsuit is fraud, past and continuing.

Respondent believed the allegations of his complaint. The Hearing Officer is unable to ascertain if his belief was reasonable under the circumstances. This question should not be decided here. In filing the lawsuit Respondent did not violate DR1-102A (1), (5) and (6), or DR5-105A.

COUNT VI:

In 1973, Respondent was searching for a Lake County taxpayer to intervene in a lawsuit. On March 14, 1973, he wrote to Mr. Russell Hopper in furtherance of this purpose. A telephone conversation followed and Mr. Hopper declined the invitation. The two were acquaintances. Mr. Hopper may have participated as a taxpayers' representative for Respondent in the past; the evidence is conflicting on this point. Mr. Hopper did not file a complaint with the Disciplinary Commission or testify at this hearing.

Hearing Officer finds that Respondent's conduct did not violate DR1-102A (1) and (6), nor DR2-103A.

COUNT VII:

A physical confrontation occurred between Respondent and Attorney William Spangler on May 6, 1971. Attorneys and clients were meeting for the purpose of settling some lengthy litigation; this did not take place in court. After some yelling, Respondent took a swing at Mr.

Spangler; no blow struck home. Respondent did not intend to hurt anyone. Charges were not filed resulting from this incident; either criminal, civil or contempt.

Respondent's conduct did not violate DR1-102A (1) and (6).

COUNT VIII:

This involves some uncomplimentary remarks directed by Respondent towards Attorney J. Edward McHie in early 1970. This happened during a deposition. Respondent apologized following the incident and the apology was accepted by Mr. McHie.

Hearing Officer finds that Respondent did not violate DR1-102A (5) and (6).

COUNT IX:

On March 21, 1974, there was a verbal exchange between Respondent and Attorney Richard W. Johnston. This took place in the Lake Superior Court, Room No. 1, Hammond, Indiana, The Honorable Cordell C. Pinkerton presiding. Judge Pinkerton did not testify, nor did the other party present, Attorney Richard W. Johnston. No contempt proceedings resulted from the ncident. There was not a delay or disruption of the court proceedings. Respondent's remarks, which were improper, were reasonably related to the judicial action, in furtherance of his position as an attorney for and on behalf of his clients.

Respondent's conduct did not violate DR1-102A (1), (5) and (6), nor did it violate DR7-106C (6).

COUNT X:

In early 1972, Respondent participated in the taking of a deposition which was often continued and was lengthy. The participants temperament became short near the conclusion. Respondent directed some uncomplimentary remarks towards Attorneys John P. McQuillan and Wilbur J. Glendening. The deposition did, however, proceed in an orderly course to a conclusion. The participants did not file a complaint with the Disciplinary Commission. The circumstances surrounding the incident are not clear.

Respondent's conduct did not violate DR1-102A (5) and (6).

COUNT XI:

Respondent was the attorney for litigants in Lake Circuit Court, Cause No. C71-1384. This was a taxpayers' lawsuit concerning fraud and the case drew much publicity. In June of 1974, Respondent filed a brief in the case and disseminated copies of it to various Judges and attorneys not involved in the lawsuit. The people who received it did not testify, -or make a complaint to the Disciplinary Commission. Local newspapers had previously published other orders about the case. The purpose of Respondent's actions was to gather support for his clients' lawsuit. His conduct

was not prejudicial to the orderly administration of justice, nor did it constitute the making of a prohibited extra judicial statement concerning litigation.

At worst, Respondent exercised poor judgment; he did not violate DR1-102A (1), (5) and (6), or DR7-107G (1), (2) and (5).

COUNT XII:

On July 1, 1974, Respondent wrote a letter to Judge James Moody, Lake Superior Court, Room No. 4. The letter was critical of Judge Moody's handling of a particular case; specifically, a previous order he entered which was sent to the Disciplinary Commission. The Hearing Officer is unable to determine why Judge Moody's order went to the Commission. Respondent's letter went there following the order for the purpose of defending his position; for the same reason, copies went to the news media who had published the order two days after it was executed; someone unknown furnishing it to them. It is evident that the press and public had basically been presented one side of the case shortly before the letter. It is also clear that Respondent, acting for his clients, desired to publish his position. Respondent believed the statements in the letter were true; the reasonableness of such belief is questionable.

Respondent did not violate DR1-102A (1), (5) and (6), nor did he violate DR8-102B.

COUNT XIII:

On August 8, 1974, Respondent wrote to Judge Moody; copies were sent to various other persons. The letter shows the continuing conflict between the two concerning pending litigation. Respondent did not knowingly make false statements in the letter. Again, his intention was to publish his clients' position. Respondent's theory is based on a conspiracy; the evidence supporting this is conflicting. Neither Judge Moody, nor Respondent's adversaries initiated contempt proceedings which would have offered Respondent an opportunity to explain his conduct.

Respondent did not violate DR1-102A (16), nor DR8-102B.

COUNT XIV:

It is alleged that Respondent made improper final oral argument in the case of State of Indiana -vs- John Gallison, N 3013, City Court of Hammond, on May 22, 1973. This was a jury case and concerned blocking a railroad crossing in the City of Hammond. In his argument, Respondent went beyond the scope of the evidence; for this he was admonished by the Court. Respondent and his client did believe the prosecutions against the railroad were politically motivated by the City.

Respondent's conduct did not violate the Disciplinary Rules, specifically DR1-102A (1), (5) and (6), nor DR7-106C (1) and (6).

COUNT XV:

Respondent filed a lawsuit on or about May 3, 1974, entitled Woodmar Realty Company -vs- Samuel C. Ennis and Company, et al, Lake Superior Court, Room No. 5, Cause No. 174-439. The 31 page complaint concerned numerous matters, facets and phases of the Woodmar litigation in Federal and State Courts going back to 1941; this suit is pending at this time. Respondent did, in fact, have authority to file this lawsuit. The contention of the Disciplinary Commission is that the suit was filed for the purpose of annoying and harassing attorneys and party litigants who, in the past, have in one way or another opposed Respondent; the evidence was not sufficient to support their contention. A suit was filed in Federal Court to enjoin the prosecution of the 1974 lawsuit; however, the suit to enjoin it was dismissed and an appeal is pending in the Court of Appeals for the Seventh Circuit. These tribunals have before them the parties in interest with jurisdiction to make necessary determinations.

Respondent's conduct in filing said lawsuit did not violate DR1-102A (1), (5) and (6), nor did it violate DR7-102A (1).

COUNT XVI and XVII:

Respondent was an attorney in DuBios -vs- Union Trust Company of Indianapolis as Trustee, et al, Cause No. 197-60. After pending for 17 years, the case was set for trial on October 12, 1973. On

that date, Respondent filed a motion for substituting certain parties and requested a continuance; both requests were granted by the Honorable Everett West. Judge West and Attorney Fred Donnersberger were not pleased with Respondent's motion. After granting the motion, Judge West imposed sanctions on Respondent; heated argument and accusations followed his decision. Both Respondent and Attorney Donnersberger lost their tempers. No contempt proceedings were initiated against Respondent.

Respondent's actions were not prejudicial to the administration of justice; nor did they cause unnecessary delay in the prosecution of the case. Respondent's conduct did not violate DR1-102A (1), (5) and (6), or DR7-102A (1), or DR7-106C (6).

COUNT XVIII:

The lawfirm of Crumpacker, Abrahamson and Reed received a $7,500 loan from the Mercantile National Bank of Hammond on March 6, 1970. This transaction was initiated by Respondent and was later renewed by other members of the law firm. The loan was for the purposes of out-of-pocket expenses connected with pending litigation which is still pending. After the law firm dissolved, Respondent personally paid the renewal note; this loan is still the subject of a partnership dispute. These moneys were not the clients' funds or property, nor were they aware of the transaction.

Respondent's conduct did not violate

DR1-102A (4).

COUNT XIX:

In 1971 the law firm represented Morris Victor in Victor -vs- Sylvester, et al, Porter Superior Court Cause No. 70-PSC-300. Attorney Harold Abrahamson did the work for Mr. Victor. A settlement was reached under which Mr. Victor was to receive $1,750 from each of two defendants. After one defendant paid his share, Mr. Victor consented that distribution be withheld until the firm received the entire settlement. The other half has never been paid by the defendant. Respondent wished to discuss it; however, Mr. Victor refused this request. Respondent does not believe that he owes Mr. Victor; however, clearly somebody owes him. The Hearing Officer cannot decide this partnership dispute.

Respondent did not violate DR1-102A (1) and (6), nor did he violate DR9-102B (4).

In conclusion, the Hearing Officer has found for Owen W. Crumpacker, the Respondent. The evidence clearly shows that he can be a difficult man; one who has pushed and bullied Judges and attorneys for years. Yet, he has done so as an advocate and with honesty. Unfortunately, many times he is unreasonable and hasty. Surely all professions must deal with difficult personalities. If they are honest and capable, there should be a place in the profession for them.

Respectfully submitted,

/s/ Bruce W. Douglas
Bruce W. Douglas, Hearing Officer

IN THE

SUPREME COURT OF INDIANA

FILED
NOV. 29, 1978

IN THE MATTER OF)
) Cause No. 974 S 187
OWEN W. CRUMPACKER)

DISCIPLINARY ACTION

PER CURIAM

This proceeding is before the Court on a nineteen count amended complaint filed by the Disciplinary Commission of the Indiana Supreme Court pursuant to Admission and Discipline Rule 23, Section 12. A Hearing Officer was appointed, the cause was heard, and the Hearing Officer has filed his findings of fact, conclusions of law and his recommendation. The Disciplinary Commission and the complainant have now petitioned, pursuant to Admission and Discipline Rule 23, Section 15(a), for this Court to review the findings of the Hearing Officer and the Respondent has submitted objections and supplemental objections to the petition for review. Both the Disciplinary Commission and the Respondent have filed briefs in this cause.

In the course of extensive proceedings which have already transpired in the cause and in their respective pleadings before this Court, the Disciplinary Commission and the Respondent have raised several issues which affect this cause in general. These general issues will be addressed prior to reviewing the allegations of misconduct and the evidence of record in support of such allegations.

In his objections and brief in support of such objections, the respondent incorporates by reference three defenses to the allegations of misconduct raised during the hearing stage of this cause. As his first affirmative defense, Respondent asserts that Admission and Discipline Rule 23 is unconstitutional in that it violates the 1st and 14th Amendments to the United States Constitution and Article 1, Sections 13 and 21 of the Indiana Constitution. At no point in these proceedings, however, does the Respondent set out the specifics of this objection. Instead, the Respondent merely makes the general objection and then in the course of his pleadings attempts to attach such objection to specific assertions of misconduct. At a

later point in this opinion this Court will address the specific objections directed toward the charges. Thus, this Court now finds that the Respondent's first affirmative defense, as it stands without specificity, does not present an issue for determination by this Court.

As his second affirmative defense, the Respondent asserts that all the counts of the verified complaint filed in this cause are and constitute the subject matter of pending litigation, the exclusive jurisdiction of which is vested in particular courts of the State.

The fact that the alleged violations of disciplinary rules involve conduct during the course of litigation is no defense. Issues of civil or criminal litigation are not determined in a disciplinary proceeding. Under the Constitution of the State of Indiana, this Court must establish and police standards of professional behavior by the bar. The standard for an attorney's behavior is the Code of Professional Responsibility and such standard exists independent of issues in civil or criminal litigation out of which an allegation of impropriety may develop.

In re Wireman, (1977) __ Ind. __, 367 N.E. 2d 1368, cert. denied 56 L.Ed. 2d 402. Accordingly, in light of the above considerations, this Court now finds that the Respondent's second affirmative defense is unfounded.

The Respondent, as his third affirmative defense, asserts that a former Disciplinary Commission member had a personal, financial interest in the disbarment of the Respondent; and the Commission, acting through this former member and agents "conspired and confederated with other Lake County attorneys for the accomplishment of a corrupt, illegal and unconscionable plan, purpose and scheme," such plan being the removal of the Respondent as an opponent in certain litigation. In Volume II of his brief in support of his objections, the Respondent attempts to weave thirty years of litigation in which he has been involved, including these proceedings, into one grand master plan of conspiracy involving judges, courts and attorneys. The whole world is a fraud, everyone is driven by corrupt motives, and the only exception to this evil design is the Respondent, Owen W. Crumpacker.

Consequently, the Respondent concludes that the whole world is now out to destroy Owen W. Crumpacker.

After examining all matters which have been submitted in this cause, including the transcript of the proceedings before the Hearing Officer, this Court now finds that the Respondent has totally failed in his proof in support of his third defense. The Respondent makes allegations and in the course of questioning witnesses attempts to tie his assertions to events. However, he never accomplishes his purpose; the factual allegations raised in this defense just are not supported by credible, admissible evidence. Accordingly, this Court now finds that the Respondent's third affirmative defense is without merit.

Additionally, the Respondent, in the pleadings filed in this cause, raises various objections to this disciplinary proceeding and the various counts contained in the verified complaint. The Respondent asserts that many of the charges were predicated on allegations not contained in a grievance filed pursuant to Admission and Discipline Rule 23 and as such were neither appropriately investigated nor considered by the Disciplinary Commission.

This Court has held that a disciplinary grievance

will not be strictly construed. Such grievance must merely advise the Respondent of the general nature of the allegations of misconduct made against him. In re Wireman, Supra, In re Murray, (1977) __ Ind. __, 362 N.E. 2d 128, appeal dismissed, __ U.S. __, 98 S. Ct. 758, 54 L. Ed. 2d 777 (1978). In the present case, there were three separate complaints filed and the Respondent specifically waived notice at the administrative level as to several of the allegations of misconduct. We find that the Respondent was advised at the administrative level of these proceedings of the general nature of the allegations upon which the charges in the complaint are predicated.

The Respondent also argues that the events which transpired prior to the adoption of the Code of Professional Responsibility cannot constitute a basis for a disciplinary proceeding. The Respondent, however, does not further develop this issue. This Court, prior to the adoption of the present disciplinary rules, did impose discipline, and the standards for such conduct were the Cannons of Professional Ethics of the American Bar Association. In re Kuzman, (1975) __ Ind. __, 335

N. E. 2d 210, Tokash v. State, (1953) 232 Ind. 668, 115 N.E. 2d 745. Accordingly, where it is properly charged, this Court will examine events which allegedly transpired prior to the effective date of the Code.

Next, the Respondent objects to various charges in the verified complaint arguing that these matters allege criminal misconduct which should afford him the protection of a criminal defendant; he further asserts that the death of a witness has denied him his rights of confrontation and the accusations which center on direct or indirect contempt really are matters to be resolved through civil or criminal proceedings.

These objections merely parallel Respondent's second affirmative defense which was previously noted and determined to be unfounded. We again note that a disciplinary proceeding stands independent of any criminal or civil proceeding. A disciplinary proceeding cannot alter a valid judgment and the fact that a civil or criminal cause was or was not commenced against the Respondent has no bearing on the propriety of a particular disciplinary proceeding relating to similar factual matters. Accordingly, we find that Repondent's objections as set out above are without merit.

The remaining portion of the petitions for review filed by the Disciplinary Commission and the complainant, and the objections and supplemental objections filed by the Respondent concern the substantiation of alleged acts of misconduct and the factual and legal conclusions to be drawn from the factual findings. These issues are resolved through the review process employed by this Court in disciplinary matters. Ultimate findings of fact upon which a determination of misconduct is weighed are reached through a complete examination of all pleadings, including the transcript. The findings of the Hearing Officer are considered; however, they are not controlling on this Court. In re Wireman, Supra, In re Murray, Supra, In re Pawlowski, (1959) 240 Ind. 412, 165 N.E. 2d 595.

In the present case, the Respondent, through the customary courtesies extended attorneys of record, obtained the exhibits considered during the hearing stage of this cause. Ostensibly, such exhibits were obtained to allow the Respondent an opportunity to prepare his response to the petitions for reivew submitted by the Disciplinary Commission and the complainant.

Although stating that he would do so and although being requested to do so on several occasions, the Respondent has failed to return the exhibits placed in his custody and care. The Disciplinary Commission, in their brief, has summarized the relevant exhibits and the Respondent has not specifically objected to such summaries. Accordingly, this Court has employed the summaries submitted by the Disciplinary Commission and taken judicial notice of the records of this Court in its review of the Hearing Officer's findings of fact.

Counts I, II, III, V, VI, XI, XII, and XIII are all interrelated and generally deal with the Respondent's litigious assault on former members of his law firm, former clients, and others perceived by the Respondent to be associated with his former partners. It is noted at the outset that many of these charges involve conduct which occurred during the course of litigation. The Code of Professional Responsibility does not restrict advocacy and this Court does not suggest in any way that a lawyer should not provide zealous representation. Yet, a legal proceeding is not a vehicle for personal vilification and when a lawyer's decisions, pleadings, and practice develop into tools for self-

interest, he ceases to be a zealous advocate. The lawyer at this stage becomes an impediment to the practice of law and violates the Code of Professional Responsibility.

The first two counts emanate from the Respondent's alleged conduct during the appeal of a cause from Lake County, captioned Dedelow Inc. et al. v. Board of County Commissioners et al. In general the Respondent is charged with improperly asserting that he represented the appellees and improperly submitting a scurrilous pleading. Specifically, the Respondent is charged under both counts with violating a disciplinary rule, with engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, with engaging in conduct prejudicial to the administration of justice, and with engaging in conduct that reflects adversely on his fitness to practice law, in violation of Disciplinary Rules 1-102(A)(1), (4), (5), and (6).

After reviewing all matters submitted in this cause the Court now finds that in the spring of 1972 the Respondent was a partner in the firm of Crumpacker, Abrahamson and Reed. In May 1972, Abrahamson and Reed announced their intent to leave the firm. By the end of 1972, the plans were finalized by Abrahamson and Reed and there

was no question as to the fact that they were leaving. The Respondent left for a vacation in Colorado and locked his files in his office. As a condition to getting office files, the Respondent demanded that the clients of Reed come into the office and discuss, with the Respondent, Reed's representation in the future. The Respondent also demanded possession of Reed's personal bank accounts for scrutiny.

The Dedelow case was an action brought by Dedelow Inc. as the unsuccessful low bidder on a county project seeking injunctive relief plus damages. The case was filed in 1971 by Kenneth Reed. He signed the pleadings in the firm name and in his own name. The Respondent never participated in the law suit. The trial court found for plaintiffs, imposed injunctive relief, but did not award damages. Defendants appealed.

The defendants filed their brief on December 31, 1972. Plaintiffs below (Dedelow) had forty days to respond which came about during a period of time in which the Respondent's firm was dissolving. Peter Vukovich, house counsel and secretary for Dedelow, Inc., gave the Respondent a check covering costs due and requested that the Dedelow files be turned over. He never received

what he requested. James Dedelow, Vice-President of Dedelow, Inc.,thought that he employed Reed and not the Crumpacker firm.

On January 29, 1973, the Respondent filed a verified petition for extension of time to file the brief for Dedelow and was given the record of proceedings. (The Respondent has asserted that he had authority to file the petition by reason of the fact that he was the senior partner in the law firm at the time the initial complaint was filed.) Thereafter, Reed filed for time and requested possession of the record. The Court of Appeals set a hearing on March 5, 1973,to determine who represented Appellee Dedelow.

Reed and Abrahamson employed counsel, Fred G. Donnersberger, to represent them concerning the dissolution with the Respondent. Prior to the Court of Appeals hearing, the Respondent prevailed on Donnersberger to get such hearing called off. When Donnersberger informed the Respondent that it would be held as scheduled, the Respondent retorted, "You snake son-of-a-bitch, that leaves but one thing for me to do, to go down and load up both barrels of my gun, and I'll getcha."

The Court of Appeals held the hearing and gave both parties claiming to represent appellee until March 12,

1973 to file papers on the issue of representation. At the March 5th hearing Donnersberger tendered the Court a copy of a resolution of Dedelow, Inc. showing that the Board of Directors unanimously voted to have Reed represent them in the litigation then pending before the Court of Appeals.

On March 11th the Respondent filed in the Court of Appeals a motion entitled "Motion of Defendant-Appellee (sic) James R. Dedelow for Review of Records for Fraud Practiced upon the Courts and the Taxpayers of Lake County, Indiana." (This Court has taken judicial notice of such motion.) This pleading alleged that Reed had conspired with the county attorney to produce the "de facto" defeat of his clients in this matter in exchange for the defeat of the county in other litigation, commonly known as the "Apple Valley Park" litigation. James Dedelow then filed a pro se pleading noting that he did not authorize the filing of the above-noted motion and prayed that it be withdrawn and expunged. The Court of Appeals granted the relief as prayed by James Dedelow.

In light of the above findings of fact this Court now concludes that the Respondent misrepresented to

the Court of Appeals his status in the Dedelow proceedings and used such proceedings as a forum to personally attack a former partner. Accordingly, this Court now finds that the Respondent has violated the Disciplinary Rules, engaged in conduct involving dishonesty, deceit and misrepresentation, engaged in conduct prejudicial to the administration of justice and engaged in conduct which adversely reflects on his fitness to practice law. By such conduct the Respondent has violated the Code of Professional Responsibility as charged under Counts I and II of the amended verified complaint.

Counts III and V are related to Counts I and II and grow out of the Respondent's relationship with one Richard L. Klaas who was a client of the firm of Crumpacker, Abrahamson & Reed prior to the dissolution of this firm in January, 1973. Under Count III, the Respondent is charged with using confidential information concerning Mr. Klaas in filing his "Motion of Defendant-Appellee (sic) James R. Dedelow for Review of Records for Fraud, etc.," on March 11, 1973, in the Court of Appeals. Specifically, under Count III, the Respondent is charged with revealing

confidences or secrets, using confidences or secrets for the advantage of himself or a third party, violating a disciplinary rule and engaging in conduct which adversely reflects on his fitness to practice law in violation of Disciplinary Rules 4-101(B)(1), 4-101 (B)(2), 1-101 (A)(1), and 1-101 (A)(6) of the Code of Professional Responsibility.

Under Count V of the complaint, the Respondent is charged with naming Klaas as one of 42 defendants in a lawsuit involving the same general subject matter as involved in prior litigation where Klaas was represented by the Crumpacker firm. The Respondent is charged with the same violations of the Code as noted above under Count III, plus improperly using a confidence or secret to the disadvantage of a client which violates Disciplinary Rule 4-101 (B)(2).

After examining the matters which have been submitted in this cause, we now find that Richard L. Klaas became interested in developing a mobile home park but ran into difficulty when the County Commissioners denied a petition to have property rezoned. He went to Crumpacker, Abrahamson & Reed in June 1971;

he initially requested Mr. Crumpacker, but was referred to Mr. Reed. Since the vote of the Commissioners was 2-0, Reed proceeded to file a declaratory judgment action in Lake Superior Court Room 5. This action was decided in August 1971 and eventually Klaas received a favorable ruling concerning the rezoning.

The land in question was held in trust by Lake County Trust Company. After Klaas had plans approved by the Planning Commission, Saul Ruman, on behalf of certain affected property owners, brought a suit against Klaas and another suit against the Board of Commissioners in Lake Circuit Court. Klaas was represented by the Respondent's law firm in all of this litigation and paid the firm approximately $7,000. This money was deposited in the firm account. During the course of this litigation Klaas talked over his legal problems with Reed and Crumpacker and provided numerous documents and other materials necessary for the proceedings.

On March 11, 1973, the Respondent filed his motion in the Court of Appeals in the Dedelow case asserting fraud on behalf of Reed and Klaas. At this time two appeals were pending in the litigation brought by Ruman for the remonstrators. The Respondent asserted

that Reed entered a deal with the attorneys representing the Lake County officials in this cause. Under the alleged terms of such arrangement, Reed was allowed to enter a false entry of judgment in the Apple Valley litigation in exchange for losing the Dedelow litigation. In his motion the Respondent sets out the proposed rent schedules for the trailer park property and some of the details of a compromise agreement being considered by Klaas and the remonstrators. Klaas did not authorize the disclosure of this information.

As noted under Counts I & II, the Court of Appeals ordered the Respondent's fraud motion expunged and stricken. Thereafter, on July 26, 1973, the Respondent, on behalf of Martin J. Connelly and Dorothy Connelly, et al., filed a suit in Lake Superior Court against 42 defendants, including Klaas and Reed, charging that Defendants perpetrated a fraud on the taxpayers of Lake County. Judge Kaul, on September 25, 1973, enjoined the Connellys and others with notice from prosecuting this cause in that it sought to set aside a settlement of a class action in Lake Circuit Court. On june 24, 1974, Judge Moody ordered the Respondent's appearance stricken in that the Respondent had

previously represented Klaas and now was representing parties with adverse interests in litigation involving the same subject matter.

In view of the above findings of fact, this Court now concludes that Klaas employed the Respondent's law firm in numerous matters, paid the firm $7,000 and was represented by the firm until its dissolution in 1973. It is also our conclusion that the Respondent charged his former client with misconduct in the same lawsuits his firm participated in prior to dissolution of the firm, that the Respondent filed a lawsuit against a former client concerning matters identical to those involved in his former firm's representation, and that the Respondent used documents furnished by Klaas upon which to predicate his allegations of fraud. Accordingly, this Court now further finds that the Respondent revealed confidences, used confidential information for his personal advantage, violated a disciplinary rule, engaged in conduct which adversely reflected on his fitness to practice law, and, by filing a lawsuit against Klaas, attempted to use confidences to the disadvantage of a former client in violation of the Code of Professional Responsibility as charged under

Counts III and V of the amended verified complaint.

In Count VI of the amended complaint the Respondent is charged with attempting to solicit a potential client, Russell C. Hooper. This alleged conduct is prohibited by Disciplinary Rule 2-103(A). The Respondent is further charged under this Count with violating a disciplinary rule (1-102(A)(1)) and engaging in conduct which adversely reflects on his fitness to practice law (1-102(A)(6)).

After review of the pleading filed in this cause, this Court now finds that on March 14, 1973, Crumpacker wrote Russell C. Hooper and stated that there was a need for someone to step in for Dedelow and combat the fraud that was being perpetrated on the taxpayers of Lake County. In response, Hooper wrote the Respondent and indicated that he knew nothing of this matter. Hooper declined to participate in this litigation. It appears that this second letter was written in Reed and Abrahamson's office, but signed by Hooper.

These findings of fact establish that the Respondent attempted to solicit legal business. This conduct violated Disciplinary Rules 2-103(A), 1-102(A)(1), and 1-102(A)(6) as charged under Count VI of the

amended complaint.

Counts XI, XII, and XIII of the amendeod complaint involve the Respondent's conduct during the Klaas litigation noted above under Counts III and V. In Count XI the Respondent is charged with publicly disseminating a pleading containing improper extrajudicial matters. He is specifically charged under the Code of Professional Responsibility with violating the following Disciplinary Rules:

> 1-102 (A)(1) - Violating a Disciplinary Rule;
> 1-102 (A)(5) - Engaging in conduct prejudicial to the administration of justice;
> 1-102 (A)(6) - Engaging in conduct which reflects adversely on his fitness to practice law;
> 7-107 (G)(1) - Making an extrajudicial statement in a pending civil case relating to evidence regarding the occurrence or transaction involved;
> 7-107 (G)(2) - Making an improper extrajudicial statement concerning the character, credibility or criminal record of a party, witness or prospective witness;
> 7-107 (G)(4) - Making an improper extrajudicial statement regarding his opinion as to the merits of claims by a party; and
> 7-107 (G) (5) - Making an improper extrajudicial statement relating to a matter reasonably likely to interfere with a fair trial of the action.

We have examined all matters submitted in this cause and now find that during the Klaas litigation a motion was filed to strike the Respondent's appearance. On June 10, 1974, Respondent filed a one hundred page brief in support of his objections directed toward the

Motion to Strike and sent a copy of such brief to over 80 attorneys and judges not associated with the Klaas case. The following matters, which are indicative of the contents of the brief, have been taken from its table of contents:

III. STATEMENT OF THE FACTS.....11-31

A. Description of the Actual Owners and Promoters of Apple Valley Village, To-Wit: Dannie's Mobile Homes, Inc. And Its Individual Officers and Directors.....11-15

B. The Connellys, The 2700 Demonstrators, and The Citizens, Voters and Taxpayers of Lake County, Indiana, Won a Victory Before the Board of County Commissioners On the Evening Of May 10, 1971. The Board of County Commissioners Voted Against the Rezoning of the Dinwiddie Farm (Apple Valley Village).....15-16

C. Hammond Attorney Kenneth D. Reed, County Attorney Joseph L. Skozen and Assistant County Attorney William J. Muha Perpetrate a Vicious Fraud On The Lake Superior Court Room No. 5, The Connellys, the 2700 Remonstrators, And The Citizens, Voters and Taxpayers of Lake County in Procuring A Collusive Decree on August 6, 1971. Purporting to Rezone Apple Valley Village in Circumvention of The May 10, 1971 Decision Of The Board of County Commissioners.....16-21

D. The Connellys, 2700 Remonstrators and the Citizens, Taxpayers and Voters

Are Surprised to Learn That The Hammond Superior Court, Room No. 5, In Cause No. 571-418 Has "Rezoned" The Dinwiddie Farm by Declaratory Judgment. They Make a Further Effort to Get Relief--This Time Through Resort To The Courts.....21-23

E. Flushed With Two Quick Knock-Out Victories Over Ruman and Hungry for Cash, Reed and Muha Make A Five Million ($5,000,000) Boner In Urging Dannie's Mobile Homes, Inc. to Proceed, Full Steam Ahead, With the Building Program. They Know That They Can Win Before Judge Pivarnik In The Third Suit. They Discount And Ignore The Potential Round House Punch of Robert Berger, Ruman's Law Man, In Appeal Work. They Make The "Drop" For Klaas And The Secret Beneficiaries of Trust No, 1653....23-26

F. Much To The Further Suprise of Reed, Skozen, Muha, Klaas, The Secret Beneficiaries of Trust No. 1653 and Dannie's Mobile Homes, Inc., Et Al., Saul I. Ruman and Robert Berger, His Law Man, Win A Smashing Victory for the 2700 Remonstrators, Citizens, Taxpayers And Voters, In The Indiana Court of Appeals On June 29, 1972. The Sell-Out Price for Saul I. Ruman and Class Plainiffs Bryant, Jr., Paul Hoffman and Martin Hoffman (Under Negotiation Since November 2, 1971) Sky-Rocketed Accordingly.....26-29

G. Ruman, Reed, Skozen and Muha Make a Unique Deal. In Selling Out the Interests Of The 2700 Remonstrators, Citizens, Taxpayers and Voters, And To Exculpate Themselves From Blame In Quadrupling The Size Of The Con-

templated Mobile Home Park, They Work Out A Scheme To Take The Indiana Court of Appeals And The Lake Circuit Court At Crown Point The "Scapegoats" for the Project.....30-31

IV. UNPRECEDENTED SCHEME TO USE INDIANA COURTS AS A WEAPON TO DESTROY RIGHTS AND INTERESTS OF THE 2700 REMONSTRATORS, AND THE CITIZENS, VOTERS AND TAXPAYERS OF LAKE COUNTY.....31-37

V. TO BRING THE PLAN AND SCHEME TO FRUITION, IT WAS MANDATORY THAT SAUL I. RUMAN AND THE THREE CLASS PLAINTIFFS, JOHN BRYANT, JR., PAUL HOFFMAN AND MARTIN HOFFMAN, VIOLATE THEIR FIDUCIARY DUTIES AS TRUSTEES (CLASS PLAINTIFFS).....37-45

VI. BY MAKING AN UNCONSCIONABLE DEAL WITH KENNETH D. REED, COUNTY ATTORNEY JOSEPH L. SKOZEN AND ASSISTANT COUNTY ATTORNEY WILLIAM J. MUHA TO UPHOLD AND PROTECT THE COLLUSIVE "DECLARATORY JUDGMENT, " PURPORTING TO REZONE APPLE VALLEY VILLAGE , SAUL I. RUMAN AND THE CLASS PLAINTIFFS, JOHN BRYANT, JR., PAUL HOFFMAN AND MARTIN HOFFMAN, BECAME PARTIES TO THE PLAN, SCHEME AND CONSPIRACY JUST AS THOUGH THEY WERE PRINCIPALS IN THE BEGINNING.....46-49

VII. SAUL I. RUMAN JOINS WITH KENNETH D. REED, HAROLD ABRAHAMSON AND ASSISTANT COUNTY ATTORNEY WILLIAM J. MUHA IN "COVER-UP"ACTIVITIES IN THE LAKE CIRCUIT COURT WITH THE PURPOSE OF BRINGING ABOUT A DISMISSAL OF THE CONNELLYS' ACTION IN THE LAKE SUPERIOR COURT IN HAMMOND.....49-54

VIII. SAUL I. RUMAN'S "MOTION TO STRIKE OWEN W. CRUMPACKER'S APPEARANCE ON BEHALF

OF CONFLICTING PARTIES, TO STRIKE CERTAIN LETTERS AS FALSE AND IMPROPER AND TO FIND OWEN W. CRUMPACKER IN CONTEMPT OF COURT" IS SIMPLY ONE FURTHER OVERT ACT IN THE PLAN, SCHEME AND CONSPIRACY HERETOFORE DESCRIBED. THE CONNELLY'S AMENDED VERIFIED OBJECTIONS TO THE RUMAN MOTION POINT OUT WHY HON. JAMES T. MOODY SHOULD NOT HANDICAP FULL EXPOSURE OF AN UNPRECEDENTED FRAUD ON THE INDIANA COURTS.....54-99

The above findings establish that the statements contained in the brief were extrajudicial and that such extrajudicial matters were intentionally directed by the Respondent to members of the Bench and Bar, who had no relationship to the pending litigation.

It appears that Respondent's intent was to have such matter communicated generally among the Bench and Bar. Sending such a document, to over 80 individuals reasonsbly suggests an intent for public dissemination and we conclude that these extrajudicial statements were made in such a manner that a reasonable person would expect them to be disseminated by means of public communication.

Accordingly, this Court holds that Respondent made extrajudicial statements in a pending civil case concerning evidence regarding the occurrence or transaction involved, the character or credibility of

parties, witnesses and prospective witnesses, his opinion as to the merits of claims and concerning matters reasonably likely to interfere with a fair trial. In so doing Respondent violated the Disciplinary Rules 7-107(G)(1), (2), (4), and (5), 1-102(A)(1), (5), and (6).

In the Klaas litigation, as noted before, Judge Moody struck Respondent's appearance by reason of a conflict of interest. The Respondent thereafter wrote two letters excoriating Judge Moody. His letter of July 1, 1974, to Judge Moody forms the basis of Count XII; the one of August 8, 1974, to Richard Grabham, Co-nt XIII. Both letters were released to the press. Together with the general charges of misconduct under Disciplinary Rule 1-102(1) and (6), the Respondent is specifically charged with violating Disciplinary Rule 8-102(B)which provides:

> "A lawyer shall not knowingly make false accusations against a judge or other adjudicating officer."

After reviewing all matt ers submitted herein, we now find that on June 24, 1974, Judge Moody, as Special Judge in the Klaas case, entered an order finding that the Respondent was engaged in a conflict

of interest by attempting to represent the Plaintiffs (Connellys) in this litigation; Judge Moody ordered Crumpacker's appearance striken. The judge did not release a copy of his order to the press; however, the press obtained the order and published such findings. On July 1, 1974, Respondent wrote Judge Moody a letter in which the Respondent accused Judge Moody of deliberately covering up gross fraud and publishing the order, among other accusations. Respondent then petitioned for Judge Moody to be joined in the disciplinary proceeding against the Respondent. Judge Moody replied with a 10 page response. The Respondent countered with a 17 page letter to Richard Grabham, then Executive Secretary o-f the Disciplinary Commission, generally suggesting that Judge Moody was engaged in the conspiracy taking place, that he lived under a rock, was somehow associated with the Watergate scandal, was in Reed's vest pocket, and was otherwise a corrupt public official. Respondent made attempts but wholly failed to prove any of the acts of impropriety alleged in his letters. The Respondent furnished copies of his correspondence to the news media in both instances.

In light of the above facts we find that after

receiving an unfavorable ruling from Judge Moody, the Respondent launched an unmitigated assault on Judge Moody's character and integrity. The accusations contained in his letters are totally unreasonable and false. The Resppondent should have known and probably did know such accusations were false. Thus, we conclude that Respondent engaged in the misconduct charged under Counts XII and XIII and violates Disciplinary Rules 8-102(B) and 1-102(1) and (6).

The remaining counts in the amended complaint are not associated with the Dedelow and Klaas litigation. The charges of alleged misconduct under the remaining counts generally relate to the Respondent's course of conduct in various lawsuits, demonstrated manner of representation, and proclivity to use a legal proceeding as a vehicle to punish his enemies.

Count XIV charges Respondent with making improper statements during a closing argument in Hammond City Court. He is alleged to have improperly argued that Special Judge Stanish had a connection with the Police Department and that the prosecution of this case against a railroad was politically motivated. The Respondent is charged with violating the following

provisions of the Code of Professional Responsibility"

D.R. 1-102(A)(1) - Violating a disciplinary rule;
D.R. 1-102(A)(4) - Engaging in conduct involving fraud, deceit, dishonesty or misrepresentation;
D.R. 1-102(A)(5) - Engaging in conduct which is prejudicial to the administration of justice;
D.R. 1-102(A)(6) - Engaging in conduct which reflects adversely on his fitness to practice law;
D.R. 7-106(C)(1) - While appearing before a tribunal, alluding to a matter he has no reasonable basis to believe is relevant or that will not be supported by admissible evidence;
D.R. 7-106(C)(6) - During the Course of a proceeding, intentionally or habitually violating an established rule of procedure or evidence; and
D.R. 8-102(B) - Knowingly making a false accusation against a judge.

This Court has examined all matters presented herein and now finds that during May, 1973, John Stanish sat as Special Judge in State v. Gallison. The Respondent represented the defendant who was charged under a state statute for improperly blocking an intersection; Gallison was a railroad engineer. During his final argument in this case, the Respondent stated that the prosecution was politically motivated; that the arresting officer was under the influence of the prosecutor and Court and had to follow instructions in order to advance within the police department; that he (arresting officer) was taking his orders from the Court, which was a police court; that the

defense was stuck with the Special Judge; and that the judge's law partner's father was a police officer. No evidence was introduced by Respondent to support these allegations.

Special Judge Stanish called a recess and admonished the Respondent, during which the Respondent continued to shout at the Judge.

The above findings establish that Respondent made statements which he had no reason to believe were supported by admissible evidence. He intentionally and habitually violated an established rule of procedure and knowingly made false accusations against a judge. Respondent's conduct is a misrepresentation in a court of law, is prejudicial to the administration of justice, reflects adversely on his fitness to practice law and is violative of the Disciplinary Rules. Accordingly, this Court concludes that Respondent did engage in the misconduct charged under Count XIV of the amended complaint and did violate the Disciplinary Rules charged therein.

We will next review the charges under Count IV(A) and (B). This c ount grows directly out of the dissolution of the firm of Crumpacker, Abrahamson and

Reed. The Respondent is charged with refusing to return files to clients after they had indicated a desire to be represented by his former partners. Specifically, the Respondent is charged with violating a Disciplinary Rule, engaging in conduct prejudicial to the administration of justice, and in engaging in conduct which adversely reflects on his fitness to practice law in violation of Disciplinary Rule 1-102(A)(1), (5) and (6). Additionally, under Count IV the Respondent is charged with violating Disciplinary Rule 9-102(B)(3) and (4) which provide that a lawyer shall maintain complete records of clients' funds, securities and other properties, render appropriate accounts, and promptly pay or deliver to the client, as requested, funds, securities or other properties to which the client is entitled.

After reviewing all matters submitted in this cause, this Court now finds that Kenneth Reed while a member of the firm, was attorney for Robert Croner during Mr. Croner's life. Mr. Croner owned a meat market. When Croner died in September, 1972, Mrs. Croner employed the firm to handle the estate; she gave to Reed tax records, business records, insurance policies, titles and personal checks. When the Crumpacker firm

dissolved in 1973, Reed did not take the Croner file with him.

In April, 1973, in order to prepare tax returns, Mrs. Croner and her accountant attempted to get the records which had remained under Respondent's control in the firm's premises. They made an appointment with the Respondent, waited one hour, but he did not appear. She returned the next day with her son and again the Respondent did not show. During the summer of 1973, Mr. Lloyd Ahlf contacted the Respondent on three different occasions attempting to get the Croner file for Mrs. Croner.

In January 1974, Mrs. Croner and her son met with the Respondent. Mrs. Croner advised the Respondent that she came to pick up her records. Respondent instructed her to be quiet and listen to him. When she advised him that she came for a purpose, the Respondent told her and her son to "Get the hell out." The Respondent then had his secretary bring in the records and tried to tell Mrs. Croner that he would like to settle the estate. Respondent pulled several matters out and started reading them. Mrs. Croner told the

respondent that she wanted Reed to represent her. Finally, the Respondent instructed Mrs. Croner and her son to leave. He walked them to the elevator and was reported to have said, "You can get the hell out of here. Stay out of here. You will never get your records."

Thereafter, Mrs. Croner's accountant had correspondence with the Respondent in an attempt to get the records. The Respondent has never turned the records over to Mrs. Croner.

During the hearing of this cause the Respondent testified that he never had Mrs. Croner's file. He had the office file, but not her file. He did not give her the file because he felt she did not have the proper attitude and because he believed there may have been an unreported gift of certificates of deposit, given in contemplation of death. The Respondent added that this may have created liability on his part and he had an obligation to see that the taxes were properly reported. His proof of this allegation was extremely weak and speculative.

As a consequence of not having the business

and personal records, the personal files of Mr. Croner had to be reconstructed. The time involved in obtaining duplicate documents cost the estate penalties and interest in the amount of $1,275.

The Respondent's testimony is specious, at best, and in great part inconsistent. He testified that he did not have Mrs. Croner's file, but he did have an office file. He said he did not have any personal record, but then states that he refused to turn over the file because he noted certain unreported transfers of certificates of deposit.

On the other hand, the testimony of the Disciplinary Commission's witnesses was consistent and there appears to be no motivation for prevarication on their part.

In light of the findings and considerations set out above, we conclude that the Respondent acted in a manner which was prejudicial to the administration of justice and which reflected adversely on his fitness to practice law. This constitutes a violation of Disciplinary Rules 1-102(A)(1), (5), and (6).

We further conclude that the findings establish that the Respondent did not provide an adequate account

of the properties in his control nor deliver such records as requested. This conduct is violative of Disciplinary Rules 9-102(B)(3) and (4).

As to Count IV(B), this Court now finds that Kushner and Gersack were property owners involved in a condemnation proceeding. In 1968 they retained the Crumpacker firm to represent them in such litigation. Thereafter, the State paid in $312,435 and the plaintiffs on petition withdrew this amount pending the resolution of the condemnation litigation. Under the contingent fee agreement drafted by Reed, the firm was to receive 29% of the recovery. When the money was withdrawn, the Crumpacker firm was given $70,000. The money was deposited in the firm's account and eventually distributed. Additionally, the clients had paid $6,000 to $7,000 for court costs. The Respondent personally agreet to hold the clients harmless for any loss on the withdrawal bond posted. In 1973, Kushner made ten to twelve attempts to contact the respondent relative to the delay in this litigation. In the spring of 1974, Kushner, Gersack and Respondent finally had a meeting. The clients asked for an accounting; they were not satisfied as to what they received. Thereafter, they informed Respondent

in writing that they wanted their file returned as well as their money. The Respondent did not return the file or money. Instead, the Respondent filed a petition for leave to withdraw his appearance in the condemnation proceeding which had been venued to the LaPorte Circuit Court. In March 1975, the LaPorte Circuit Court granted his petition to withdraw and ordered him to return all files, papers, and unearned fees. The Resppondent failed to do soand was found in contempt.

The findings set out above clearly establish that the clients were entitled to their file when they made their written demand. Respondent's refusal to do so constitutes misconduct and is violative of Disciplinary Rule 9-102(B)(3) and (4). Such conduct is prejudicial to the administration of justice and adversely reflects on Respondent's fitness to practice law, in violation of Disciplinary Rule 1-102(A)(1), (5) and (6).

Counts VII, VIII, IX and X concern the Respondent's outbursts during proceedings.

Under Count VII of the amended complaint the Respondent is charged with verbally and physically assaulting attorney William Spangler on or about May 6, 1971, in the library and foyer of the Lake Superior

Court in Hammond.

Having reviewed all matters submitted in this cause, this Court now finds that on May 5, 1971, Spangler met with the Respondent in a settlement conference in the Hammond Courthouse. Also attending this conference were Jack and Helen Herschbach and attorneys G. Edward McHie and Edward Glendening. The case in question involved Herschbach trust funds.

During the courseof the conference Respondent became involved in a confrontation. The commotion was initiated by Respondent who grabbed Spangler when he was attempting to leave. These findings demonstrate conduct which reflects adversely on Respondent's fitness to practice law and is thusly violative of Disciplinary Rule 1-102(A)(1) and (6) as charged in the complaint.

Under Count VIII the Respondent is charged with calling Attorney Edward McHie, among other things, a "little yellow son-of-a-bitch" during the course of the taking of a deposition. Specifically, the Respondent is charged with violating a Disciplinary Rule (1-102(A)(1)), engaging in conduct prejudicial to

the administration of justice (1-102(A)(5)), engaging in conduct which reflects adversely on his fitness to practice law (1-102(A)(6)), and engaging in undignified or discourteous conduct degrading to a tribunal (7-106(C)(6)).

This Court has examined all matters presented herein and now finds that during the course of the taking of Mr. Edward Schaeffer's deposition in 1970, the Respondent called opposing counsel, McHie, on the record dense, a culprit, so lacking in mental capacity as not being able to find his way to the toilet, too big for his britches, a skunk, a jack-leg, lazy, tricky, unfit to practice law, and a little yellow son-of-bitch. Respondent apologized to McHie on the next day. In November 1974, Respondent wrote McHie and amended his remarks to substitute "ring-tail" for "little yellow."

Had the conduct of Respondent been committed after the effective date of the Code of Professional Responsibility, the evidence presented in this cause would be sufficient to support a finding of misconduct as charged under Count VIII of the amended complaint. This Court, however, has found that the incident in

question took place prior to March 8, 1971, the effective date of the Code. Since the amended complaint did not charge the Respondent with misconduct under predecessor provisions, we now find for the Respondent under Count VIII.

In Count IX the Respondent is charged with directing discourteous and derogatory remarks toward opposing counsel and the Plaintiff during the course of a hearing before Judge Pinkerton. As under Count VIII, the Respondent is charged with violating Disciplinary Rules 1-102(A)(1), (5), and (6) and 7-106(C)(6).

This Court following review of all matters submitted in this cause now finds that on March 24, 1974, before Judge Pinkerton, during a hearing on a protective order, the Respondent directed the following remarks and others toward opposing counsel, Johnson, and/or the Plaintiff, Winslow Van Horne: (Toward Johnson): "Now if your Honor isn't going to cover him up, fine, kiss him off, send him back to the country club, let him get up on a bar stool and continue.'.....'there he could find better people to argue with as your Honor is aware"; (Toward Johnson): ". . . a young man who leaves the bar stool

out of the men's grill . . ."

(Toward Johnson): ". . . this little pipsqueak who couldn't make a living except for NIPSCO"; (Toward Johnson) ". . . he couldn't make a living if Don Mitchell gave him a pocket full of cash."; (Toward Van Horne): ". . . better get back over and sober up"; (Toward Van Horne): "Van Horne, you go back to Auburn and get drunk and get your god damned liver. . ."

These remarks were improper, but more than that these were direct, personal, insulting references directed toward opposing counsel and the Plaintiff, who happened to be an attorney. Standing alone, this one incident probably would not be sufficient to warrant serious discipline. However, this one Count does not stand alone; Respondent's behavior in the case noted under this count appears to be indicative of his method of operation. When reviewing this record, it is evident that in many instances the Respondent browbeats, shouts at and attempts to intimidate his opponents. His tirades are, at times, irrational and his rage appears to be uncontrolled. Ethical consideration 7-37 has application in the present

circumstances:

> EC 7-37 In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer in his conduct, attitude, and demeanor towards opposing counsel. Haranguing and offensive tactics by lawyers interfere with the orderly administration of justice and have no proper place in our legal system.

In light of the above considerations, we now conclude that the Respondent violated Disciplinary Rules 7-106(C)(6) and 1-102(A)(1), (5), and (6), as charged under Count IX of the amended complaint.

Count X charges the Respondent with making insulting remarks toward opposing counsel, John Patrick McQuillan, and the witness during the taking of a deposition. Respondent is charged with the same violation of the Code as under Counts VIII and IX, i.e., violation of Disciplinary Rules 7-106 (C)(6) and 1-102(A)(1), (5), and (6).

We now find that the incident involved in this Count was the deposition of Henry Herschbach, an 82 year old man. During such deposition, which lasted eleven days, the Respondent shouted at the witness, pointed his finger in the witness' face and verbally abused the opposing counsel and the witnese. The

Respondent frequently accused opposing counsel of corruption, "hanky-panky", scheming to convert and steal funds and documents, falsification of records, swindling, suborning perjury, compounding a felony, dishonesty and evasive conduct. On the final day, during the course of the deposition and in the presence of the deponent, the deponent's wife, the plaintiff, and others, the Respondent told opposing counsel, John P. McQuillan, on three occasions, that Respondent was going to stick or put McQuillen's head in a "toilet bowl." During the course of the said deposition the Respondent also accused the deponent of dishonesty, lying, corruption, conversion, embezzlement, and other crimes. A number of these accusations were accompanied by Respondent pointing at the eighty-two year old witness, shaking his hands and fingers at the witness and shouting at the witness.

In light of the above findings, this Court now concludes that the Respondent engaged in conduct which adversely reflects on his fitness to practice law and which was prejudicial to the administration of justice. Accordingly, we now further find that the

Respondent violated Disciplinary Rules 1-102 (A)(1), (5), and (6) as charged under Count X of the amended compaint.

Under Count X , as noted above, the Respondent is also charged with violating Disciplinary Rule 7-106 (C)(6), which prohibits undignified and discourteous conduct when appearing in a professional capacity before a tribunal. The Respondent's misconduct under this count transpired during the course of a deposition. The issue thusly becomes whether or not conduct during the course of a deposition is conduct "before a tribunal" under the above-cited Disciplinary Rule. This rule is predicated on the need for an orderly procedure to resolve disputes. Such procedure envisions spirited debate and intense examination. But an orderly process of dispute resolution is not possible unless there is respect for the procedures and an attempt to work within an established framework. Discourteous and undignified behavior detracts from the orderly process of dispute resolution and clearly falls outside an acceptable level of attorney conduct. It appears insignificant whether such conduct

occurs during the taking of a deposition or during the examination of a witness at trial. Both instances require an orderly process and mandate customary courtesies. Both a deposition and a trial are governed by the rules of Court and are under the auspices of the Court. Accordingly, we now find that the Respondent's conduct during the course of the Herschbach deposition violated Disciplinary Rule 7-106 (C)(6), as charged under Count X of the amended complaint.

Under Count XV the Respondent is charged with filing a lawsuit alleging fraud and conspiracy when such assertion had been previously litigated in Federal Court and found to be a groundless claim. It is asserted inthe complaint that the Respondent pursued this course of litigation as a means to annoy and harass the attorneys opposing him. The Respondent is charged with violating the general provisions of Disciplinary Rules 1-102(A)(1), (5), and (6) and Disciplinary Rule 7-102(A)(1) which prohibits deliberately filing a suit for a client when it is obvious that such action would serve merely to harass another.

Having reviewed all matters submitted in this cause, this Court now finds that in May 1974, the

Respondent prepared and filed a complaint in the Superior Court on behalf of Woodmar Realty Company. He was authorized by his client to do so. Named as defendcants, among others, were Walter McLean and Herschel Davis. These individuals were the trustee and trustee's attorney in a bankruptcy proceeding involving Woodmar Realty. Such previous proceeding was commenced in 1941 and concluded in 1969 with the trustees being discharged. Also named as defendants were Edmond Leeney, Charles Levin, and Floyd Murray who had represented interested parties adv erse to the Respondent during the course of the bankruptcy proceeding.

During the course of the proceeding in Federal Court, the Respondent attempted to assert fraud on the part of McLean and Davis. The Respondent filed an amended complaint which was dismissed. On appeal, the United States Court of Appeals, Seventh Circuit, affirmed the decision of the district Court. Woodmar Realty Company v. McLean (1961), 294 F. 2d 785. Additionally, the Court of Appeals commended on the Respondent's conduct in such matter.

. . . This opinion might rest there and the judgment be affirmed without further discussion, were it not for the pervading impression gathered from this record that the removal peeition constitutes an attempt by appellant's attorney, Mr. Crumpacker, to harrass appellees inthe continued performance of their official functions and a near-contemptuous abuse of the processes of a federal court. (294 F 2d at 786)

There is, however, more involved here than the time element, namely, a vituperous tendency of counsel to read some heinous motive into the acts of anyone who dares to oppose him and of every judge who rules adversely to him. . . (294 F. 2d at 792)

We think that fact of timing is significant, and it is certainly consistent with the pattern which the record reveals of charging both the dead and the living with fraud whenever an adverse ruling is contemplated or becomes a reality. (294 F. 2d at 792)

Because we are conviced that the record in this case presents a contemptible, if not contemptuous, abuse of the legal processes of a federal court, we have dwelt at length upon a historical resume of the record facts as they have come to our attention. We did that advisedly in order that there may be no mistake that we are cognizant of the nature and severity of the question with which we deal. We find a sordid picture of the repeated use of ill-founded charges of fraud as a trial tactic which is foreign to established concepts of honest and ethical advocacy. We want it clearly understood that repetition of that practice as disclosed by this record will not be tolerated in the future. (294 F. 2d at 794-5)

The proceeding filed inthe Lake Superior Court

was challenged in Federal District Court. In reversing a decision to the contrary, the Court of Appeals, Seventh Circuit, ultimately held that the general principles of res judicata precluded the Respondent from relitigating the issue determined in the prior federal proceeding. Samuel C. Ennis and Company, Inc., et al. v. Woodmar Realty Company, et al., 542 F. 2d 45. This Court now takes judicial notice of such decision.

The above findings of fact establish that upon an examination of the history of this litigation a very reasonable inference can be drawn that Respondent's motive in filing this suit in Lake Superior Court was to harass.

Whether or not the Respondent was authorized to file the suit in Lake Superior Court does not appear crucial under Disciplinary Rule 7-102(A)(1); this provision makes no exception for an attorney who has a client's authority. Disciplinary Rule 7-102(A)(1) precludes an attorney from filing harassing litigation.

In light of the above considerations this Court concludes that Respondent filed a suit and took action on behalf of his client when it was obvious that such suit would only serve to harass and maliciously injure

others; that such conduct is a violation of Disciplinary Rule 7-102(A)(1). Respondent's actions relative to this count are further violative of the provisions of Disciplinary Rules 1-102(A)(1), (5), and (6).

Counts XVI and XVII emanate from the Respondent's conduct in the case of Dubois v. Union Trust Company of Indianapolis, et al. It is charged that on the day of trial of this cause, the Respondent asked for a continuance to substitute the trustee in bankruptcy as the real party defendant. The Respondent had known for years that the trustee was the real party in interest, but waited until the last day. For such conduct the Respondent is specifically charged under Count XVI with violating the general provision of Disciplinary Rules 1-102(A)(1), (5), and (6), and Disciplinary Rule 7-102(A)(1) which prohibit taking an action merely to harass another. Special Judge West indicated that because of the delaying tactic being employed he would impose a sanction against the Respondent. Crumpacker then commented in the record that this was a lot of "bunk" and that he would "waltz" Judge West to the Disciplinary Commission if the sanction were allowed to stand. The Respondent

is charged under Count XVII with undignified or discourteous conduct before a tribunal in violation of Disciplinary Rule 7-106(C(6), and general violations of the Code of Professional Responsibility, to-wit: Disciplinary Rules 1-102(A)(1) and (6).

Upon examination of the matters submitted in this cause, we now find that on October 12, 1973, the Respondent, in a matter that ha dbeen pending for a number of years, moved to substitute parties. The plaintiff objected. The trial judge indicated that the change in parties had been known to defense counsel for along time prior to the trial date and no attempt had been made to substitute and further indicated an inclination to impose sanctions on defense counsel, Respondent. The Respondent then stated in open court, "that's the most abusive order I have ever heard a Judge emit from the stand, I, I'm going, if that order stands, we're going to take it up with the Disciplinary Commission and we'll, and I represent to you that as an officer of this Court you're going to get, we'll waltz you down there before the Commission as quickly as you can get there, do you understand?" Respondent added "and even faster. The

idea of that kind of bunk."

In light of the above findings, this Court concludes that the acts of the Respondent in the Dubois v. Union Trust Company of Indianapolis case constituted undignified and discourteous conduct before a tribunal. Accordingly, this Court now finds that the Respondent violated Disciplinary Rules 1-102(A)(1) and (6) and 7-106(C)(6) as charged under Count XVII of the amended complaint. We further find, however, that the evidence is insufficient to support a finding of misconduct as charged under Count XVI of the amended complaint.

Under Count XVIII of the amended complaint the Respondent is charged with violating Cannon 11 of the American Bar Association's Canons of Professional Ethics and under Count XIX of the amended complaint the Respondent is charged with violating Disciplinary Rules 1-102(A)(1), (5), and (6), 7-101 (A)(3) and 9-102(B)(4). Both of these counts concern the internal financial affairs of the Respondent's former law firm. We anticipate that the underlying issues in these charges will be resolved in the final settlement of the law firm obligations and assets. We find the evidence of record insufficient to support a finding

of professional misconduct under Counts XVIII and XIX of the amended complaint.

It now becomes the duty of this Court to impose an appropriate disciplinary sanction by reason of the above-cited acts of misconduct. As this Court has noted on several previous occasions, in reaching such decision many factors are considered, such as the nature of the violation, the specific acts of misconduct, this Court's responsibility to preserve the integrity of the Bar, and the risk, if any, to which we will subject the public by permitting the Respondent to continue in the profession or be reinstated at some future date. In re Vincent (1978), __ Ind. __ 374 N.E. 2d 40; In re Tabak (1977), __ Ind. __, 362 N.E. 2d 475; In re Murray (1977), __ Ind. __, 362 N.E. 2d 128.

In the present case, the evidence presents a particular course of conduct totally contrary to the effective administration of justice and all standards of professional conduct. The acts set out under the various counts wherein this Court has found misconduct create a picture of a vicious, sinister person, tunnel-visioned by personal pique, and willing to

forego all professional responsibilities which conflict with acts of preconceived vengence on personal enemies. The Respondent's wrath has no bounds and his ire affixes to any and all persons who oppose him, even if such opposition is in a professional capacity. The Respondent verbally insults his adversaries at a personal level. Professional advocacy is totally submerged into vitriolic obliquy and all of the Respondent's adversaries, professional or personal, immediately become part and parcel of a grand fraud or conspiracy being perpetrated on some party for whom the Respondent asserts representation.

The course of conduct demonstrated by the Respondent has no place within the contemporary practice of law. A lawyer owes an obligation to his client to provide the best representation possible, an obligation to the legal profession to strive for justice, and an obligation to himself to meet the demands of his profession. When a lawyer looses sight of his purpose and uses the legal system for personal vengence, he fails in his obligations to his client, profession, and self. In the present cause the Respondent used

information gained in the course of professional services to form the basis of a suit against his former client; he employed the legal system as a vehicle for personal vengence; and in the end the Respondent abandoned any standard of professional behavior. This conduct, unfortunately, represents a total failure of all obligations.

In light of the above considerations, this Court is forced to conclude that the strongest sanction available under the Constitution of the State of Indiana must be imposed to preserve the integrity of the legal profession and to protect the public from future acts of misconduct as found in this case. It is therefore ordered that by reason of the misconduct found in this cause the Respondent be, and he hereby is, disbarred as an attorney in the State of Indiana.[1]

Costs of these proceedings are assessed against the Respondent.

Pivarnik, J., not participating.

---

1) This court finds it imperative to comment on

Respondent's behavior during the lengthy hearing of this matter. His outbursts, insults toward witnesses and opposing counsel, and insinuations of collusion on the part of the Commission and its staff, went far beyond any measure of effective advocacy. The record is replete with instances of such conduct demonstrating a total disregard for the proceeding itself, and courtroom decorum generally. The following exerpts are but a few examples:

> Tr. 127; (I)f the Court undertakes to listen to this Commission that it isn't interested in maintaining the honorable integrity of the profession, but is interested rather in attempting to smear and destroy a reputation of a lawyer, then I say that is the way to let them foreclose any enquiry into this case."

Tr. 139: To witness Donnersberger: "You can remember the magic words that are in the Commission's fcolishness?" Hughes: "Your Honor, I object to the representations Mr. Crumpacker is making about the Commission." Respondent: "Why don't you leave."

Tr. 141; ". . .(A)s far as I am concerned, the Court (J. West) did nothing but drink himself to oblivion at the Tallyho down in the outskirts of Peru and conduct night court for the Bunker Hill Academy. And he didn't do a damn thing except get drunk and get thrown out of office when he ran again."

Tr. 175; "My question was did I ask you (Donnersberger) Mr. Courtesy, for the benefit of the smirking people of the grievance

committee who are, in my opinion, eighteen karat H.A.'s."

Hughes: "Your Honor, I don't think we should have to sit here and be subjected to that_____."

Crumpacker: "I know you don't, you're too dumb. But I don't like these smirks at my back. When smart alecks make some statements . . ."

Tr. 218; (When Res pondent's Motion to Separate Witnesses was denied) "We are going to seek redress against these men and it's going to be a solid lawsuit against them for vicious attacks upon the character and integrity. . . "

Hughes: "Your Honor, would the record show that when Mr. Crumpacker said a moment ago that he was going to file solid lawsuits that he pointed in the direction of Mr. Hughes and Mr. Stevens and Mr. Grabham."

Tr. 588; "Substantially, the law firm Abrahamson, Reed & Tanasijevich is known in Hammond as Toad, Weasel and Skunk and they have been actively participating under that appellation."

Tr. 771; About Abrahamson: "Well, it's irritating because I know him well enough to know that he couldn't make a living on his own hook. . . . If he is going to sit here, if you won't throw him out, and he should be thrown out of all courts of law, at least he should be admonished not to be passing sweetheart notes to his sweetheart Hughes and Hughes.

Tr. 788; I think that your (Hughes') courtesy couldn't get by in the lowest J.P. Court. When the J.P. Courts are all abolished, why, you will be on the relief rolls. . ."

Tr. 797; "My defense is based on the truth and I accuse you (Hughes) of falsifying the document that is tendered (Ex. 25 - later admitted).

Tr. 987; (During the introduction of Plaintiff's Ex. 27 and objections thereto) "Now, because Mr. Abrahamson is here and directing the travelling road show and gets ahold of Mr. Hughes and says now. . ."

Tr. 1076; (In reference to witness McQuillan) ". . .I think that he should be horsewhipped and put in jail, that's my opinion."

Tr. 1111; "And Mr. McQuillan deserves more than having his head stuck in a toilet bowl."

Tr. 1114; "Now, if this outfit, this Disciplinary Commission, is permitted to come up and take lawyers apart in pending cases and try to discipline another lawyer because he calls another guy (McQuillan) that swindled his client out of about a hundred thousand dollars in the course of a deposition that he's been evading, why, I say, the Disciplinary Commission is going to be the most foolish, inappropriate bunch of time wasters, and I think that that's what we are confronted with here. Now, Mr. Hughes is up here only because Abrahamson and Reed who have been here ever since the case started want him here."

Tr. 1118; "He (McQuillan) is as sleek as anybody. You (Hughes) haven't been around."

Tr. 1119; "I think it is a lot of bunk. He (Hughes) doesn't know anything about this case. I happen to know about this case and Mr. Hughes does not.

Tr. 1157; In an objection to question posed to witness Stanish: "And then to come in here with this preposterous bunch of bunk and of a political guy, to come in and try to create something that did not happen in chambers is absolutely ridiculous and we object to any effort on the part of this

disgruntled, defeated candidate for public office to blame somebody else. . ."

Tr. 1161: "This man (Stanish) is beyond abuse. I know him like a book."
"And I think it's an outrage to be here. And you (Hughes) never tried a case and you will never try one and win. . ."

Tr. 1166; "(Y)ou (to Stanish) don't understand common sense or English."

Tr. 1213; "I represent that he (Spangler) was a swindler and that he was attempting to swindle the Herschbach family."

Tr. 1216; To witness Spangler while on the stand: "There isn't anything you wouldn't do, in my opinion. I think that you have swindled more people than you'll ever know. ."

Tr. 2443; "I think that he (J. Moody) should be removed from office, this man, for violating the natural privileges of the citizens and taxpayers of the county."

Tr. 1505; "Rudolph Val Dawson, the syndicate boss. . . "

Tr. 1519; "That was Reed who was the fellow that had Moody in his pocket. . ."

Tr. 1520; ". . . I object to the Disciplinary Commission aiding and abetting the continued perpetration of a fraud on the courts through trying to cover the Declaratory Judgment of August 6, 1971. . ."

Tr. 1540; On direct examination: ". . . my feeling is that he (Mr. Grabham) is a disgrace to the legal profession. He is a disgrace to the courts. He is a freeloader and should be eliminated.

Tr. 1558; "The Gestapo has not asked me to produce a single record."

Hughes: "You mean us I guess?"

Crumpacker: "Yes, I am talking about the Disciplinary Commission."

Tr. 1161; Hughes to Crumpacker on direct:

"I wonder if you might at this time read into evidence the names of those persons to whom you sent copies of plaintiff's Exhibit 45."

Crumpacker: "no I'm not going to do it. . . .I will be damned if I am going to become an agent for this foolish neck-tie party by reading into evidence copies of letters that have no bearing on any issues except the vindictiveness. . . "

Tr. 1876; "I believe that he (Hughes) is a disgrace to the profession." Page 2630; "I assume that you are unmarried, Mr. Hughes, and that you and Mr. Abrahamson have an affinity to each other, drawn to each other. I assume you are a single person."

Hughes: "That is such an outrageous, ridiculous, asinine thing for you to say I can't even. . . are you accusing me of being a fairy?"

Crumpacker: "You wear the shoe that fits you."

Tr. 3090; "Stanish is a, that is, the judge is a liar. Stanish is a liar."

Tr. 3528; "(Y)ou (Hughes) are the biggest dead beat I have ever known."

Although being admonished on many occasions, he continued in his course of conduct. The Respondent demonstrated a total disregard of the authority vested in he Hearing Officer.

Had this Court not decided to disbar the Respondent for the conduct set forth in the complaint, this

matter would be referred again to the Disciplinary Commission for the consideration of new charges based on the Respondent's conduct during these disciplinary proceedings. However, in that the Respondent has been disbarred, the processing of additional charges would be a senseless act.

Nevertheless, this Court deems it necessary to give notice that a disciplinary proceeding is a matter before this tribunal. The rules and courtesies governing an attorney's behavior have application.

BURNS INDIANA STATUTES ANNOTATED
CODE EDITION, COURT RULES, BOOK 2

PART VI, RULES FOR ADMISSION TO THE BAR
AND THE DISCIPLINE OF ATTORNEYS

Admission and Disciplinary Rule 23

DISCIPLINARY COMMISSION AND PROCEEDINGS

* * * * *

Section 2. Grounds for Discipline

Grounds for discipline and disciplinary action shall be conduct that violates the Code of Professional Responsibility and the Code of Judicial Conduct and Ethics heretofore adopted by this Court as well as the standards or rules of legal and judicial ethics or professional responsibility adopted from time to time by this Court.

* * * * *

Section 10. Investigatory Procedures

(a) Upon receipt of a written, verified claim of misconduct [hereinafter referred to as "the grievance"], from a member of the public, a member of this Bar or a member of the Commission and completion of such preliminary investigation as he deems appropriate, the Executive Secretary shall:

1. Dismiss the claim with the approval of the Commission, if he determines that it raises no substantial question of misconduct; or
2. If he determines that it does raise a substantial question of misconduct, send a copy of the grievance by certified mail to the attorney against whom the grievance is filed [hereinafter referred to as "the respondent"] and shall request a written response within twenty [20] days after the respondent receives a copy of the grievance.

In the event of a dismissal as provided herein, the person filing the grievance and the respondent shall be given written notice of the Executive Secretary's determination. In the event of a determination that a substantial question exists, the matter shall proceed to (b) hereinafter. Amended Nov. 30, 1971.

(b) Thereafter, within forty-five [45] days, after notice to the respondent, if the Executive Secretary, upon consideration of the grievance, the preliminary investigation and any response from the respondent, determines there is a reasonable cause to believe that the respondent is guilty of misconduct the grievance shall be docketed and investigated. If he determines that no such reasonable cause exists, the grievance shall be dismissed with the approval of the Commission. In either event, the person filing the grievance [hereinafter referred to as "the complainant"] and the respondent shall be given written notice of the Executive Secretary's determination.

(c) If the grievance is docketed, for investigation, the Executive Secretary shall conduct an investigation of the

grievance. Upon completion of the investigation the Executive Secretary shall promptly make a report of the investigation and his recommendations to the Commission, at its next meetings.

* * * * *

Section 12. Prosecution of Grievances

(a) In the event the Commission determines that the misconduct, if proven, would warrant disciplinary action the Executive Secretary shall prepare a verified complaint which sets forth the misconduct with which the respondent is charged and shall prosecute the case.

(b) The complaint shall be entitled "In the Matter_____", naming the respondent. Six [6] copies shall be filed with this Court. The complaint may be verified on information and belief, and shall be served as in civil actions upon the respondent and the complainant promptly after filing. If the respondent cannot be found, this Court will, upon a proper showing, direct notice to be given by publication as in civil actions.

Section 13. Hearing Officers

In addition to the powers and duties set forth in this Rule, hearing officers shall have the power and duty to:

(a) conduct a hearing on the complaint of misconduct within sixty [60] days after the Commission's determination of reasonable cause;

(b) administer oaths to witnesses;

(c) receive evidence and make written

findings of fact and recommendations to the Court; and

(d) do all things necessary and proper to carry out their responsibilities under this rule.

Section 14. Proceedings before the Hearing Officers

(a) The rules of pleading and practice in civil cases shall not apply. No dilatory motions shall be entertained. The case shall be heard on the complaint and an answer which may be filed by the respondent within thirty [30] days after notice of the filing of the complaint. An answer, if filed, may assert any legal defense. If the respondent shall elect to file an answer, he shall file six [6] copies with this Court. An answer need not be filed, in which case the complaint shall be taken as denied. A respondent may on a showing of good cause petition for a change of hearing officer within ten [10] days after the appointment of such hearing officer.

(b) The complainant and the respondent shall be given not less than fifteen [15] days written notice of the hearing date. The respondent shall have the right to attend the hearing in person, to be represented by counsel, to cross-examine the witnesses testifying against him and to produce and require the production of evidence and witnesses in his own behalf, as in civil proceedings.

(c) The proceedings may be summary in form and shall be without the intervention of a jury and shall be reported.

(d) Within thirty (30) days after the conclusion of the hearing, the hearing officer shall determine whether misconduct has been proven by preponderance of the evidence and shall submit to the Supreme Court written findings of fact deduced by him from the evidence. The hearing officer may submit recommendations concerning the disposition of the case with his findings of fact, but such recommendations shall be given only such weight by the court as it believes to be consistent with a paramount consideration of uniformity of discipline throughout the state. A copy of said findings and recommendations, if any, shall be served by the hearing officer on the respondent and the executive secretary of the Disciplinary Commission, at the time of filing the same with the Supreme Court. This rule shall be effective on and after its adoption. Ammended eff. March 14, 1973.

* * * * *

Section 15. Supreme Court Review

(a) The respondent, complainant or Commission shall have thirty [30] days after the filing of the hearing officers inding and recommendation to petition for a review of the same before the Supreme Court. If no petition for review is filed within thirty [30] days of the finding and recommendation of the hearing officer the Supreme Court shall enter judgment or such other appropriate order in the premises.

(b) Upon receipt of written recommendation for suspension, pending final determination of the cause, this Court may

forthwith enter an order of suspension thereon. Respondent shall have fifteen [15] days thereafter to petition this Court for a review and a dissolution of such order.

(c) In the event that this Court grants a petition under this Section 15, briefs may be filed and oral arguments heard, as the Court shall determine. Such briefs need not conform to the rules of this Court. Upon a review the Court shall determine whether the findings and recommendations of the hearing officer or officers are supported by sufficient evidence and shall enter its judgment, with or without opinions as the Court shall determine.

* * * * *

Section 24. Rules of Procedure

The Commission may adopt rules and regulations for the efficient discharge of its powers and duties. Such rules and regulations shall become effective upon approval by a majority of this Court.

Section 25. Effective Date

This Rule shall be effective as of June 23, 1971. Cases pending before the local and State Bar Association Grievance Committees as of the effective date may be administered and adjudicated by such committees in accordance with the procedures employed by such committees prior to the adoption of this Rule or may be referred by such committees to the Commission for administration and adjudication in accordance with this Rule. Provided further these rules

shall be applicable to all pending disciplinary actions except to the extent that the Court finds their application in a particular case pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure shall apply.

* * * * *

On January 1, 1977, the Supreme Court of Indiana adopted the following Amendment to A & D Rule 23, Section 15:

(c) In the event a party does not concur in a factual finding made by the hearing officer and asserts error in such finding in the petition for review, such party shall file with the petition for review a record of all the evidence before the hearing officer relating to this factual issue. Within thirty (30) days of the filing of the transcript, opposing parties may file such additional transcript as deemed necessary to resolve the factual issue so raised in the petition for review. Any transcript filed must be settled, signed and certified as true and correct by the hearing officer. The fee paid for procuring a transcript or additional transcript shall be included in the costs of the disciplinary proceeding.

EXCERPTS FROM THE
VERIFIED FIRST DEFENSE
SERVED AND FILED BY PETITIONER
ON DECEMBER 18, 1978

IN THE
SUPREME COURT OF THE STATE OF INDIANA

Filed
December 18, 1974

IN THE MATTER OF	)	
	)	Cause No. 974 S 187
OWEN W. CRUMPACKER	)	

RESPONDENT'S FIRST DEFENSE
(ADDRESSED TO ALL TWENTY COUNTS OF THE CHARGES SET FORTH IN THE AFFIDAVIT OR INDICTMENT OF THE DISCIPLINARY COMMISSION)

(Unconstitutionality of the Supreme Court's Discipline Rule 23, Sections 1 Through 25, And The Procedures Adopted By The Disciplinary Commission Against Respondent Thereunder As Being In Contravention Of The XIV Amendment of the U.S. Constitution, And In Violation Of The Respondent's Rights Under Article 1, Sections 13 And 21 Of The Constitution Of The State Of Indiana.)

Comes now Owen W. Crumpacker, Respondent in the above-captioned cause, by counsel, and by way of First Defense against all twenty of the charges filed against him by the Disciplinary Commission, respectfully represents to Hon. Richard M. Given, Chief Justice of the Supreme Court, and the other

Honorable Justices of said Court as follows:

(1) Your Respondent, Owen W. Crumpacker, was admitted to the Bar of the Supreme Court of Indiana on January 4, 1939, and to the Bar of the Supreme Court of the United States on March 10, 1947. In addition, he is now and at all times has been a member in good standing of the Bars of the United States District Court for the Northern District of Indiana, and the United States Circuit Court of Appeals for the Seventh Circuit. He has never been charged with or convicted of any misdemeanor or crime of any kind or nature and has never been subjected to discipline by the Disciplinary Commission of the Supreme Court of Indiana, the Attorney General of Indiana, or any Bar Association. Respondent is also a member in good standing of the Hammond, Indiana, and American Bar Associations. He has never been charged with contempt of Court in connection with any proceedings in which he has participated as a member of the Bar.

(2) Respondent, sometime on or about September 24, 1974, was served by the Sheriff of Lake County, Indiana, with a Verified Complaint for Disciplinary Action signed and sworn to, upon information and belief, by one Richard H. Grabham, Executive Secretary, Indiana Supreme Court Disciplinary Commission. The Verified Complaint, on

its face, purports to consist of a "scatter-shot" information and/or indictment with twenty (20) separate counts involving, among other things, charges of the commission of the crimes of perjury and fraud and deceit in the Court of Appeals of Indiana on March 12, 1973 in connection with an appeal from the Lake Superior Court, Room No. One, entitled Eibel & Sons, Inc. and the Board of Commissioners of Lake County, Indiana vs. Dedelow, Inc., Duane Dedelow, James R. Dedelow and Peter J. Vukovich, Court of Appeals Cause No. 871 A 162, 308 N.E.2d 420, 41 Ind. Dec. 175, being an appeal from a Judgment entered in favor of Dedelow, Inc. et al. by Hon. Cordell C. Pinkerton on July 24, 1971 in a bench trial in a case filed by Hammond Attorney Kenneth D. Reed, a former employee, associate and partner of Respondent, on January 14, 1971, under Cause No. 171-43 (Counts I and II); alleged misconduct in breach of confidential relationship between one Richard L. Klaas and Respondent, growing out of an alleged attorney-client relationship, by revealing, in writing and on March 12, 1971, privileged communications between Richard L. Klaas and Respondent to the Court of Appeals in Cause No. 871 A 162, supra, (Count III); a charge of criminal and/or civil conversion of papers or files belonging to un-named clients of Hammond Attorneys Kenneth D. Reed and Harold

Abrahamson (also a former associate, employee and partner of Respondent) on unspecified occasions (Count IV); alleged professional misconduct in naming Richard L. Klaas, a client of Hammond Attorneys Kenneth D. Reed and Harold Abrahamson, as one of forty-two (42) defendants in the case of Connelly etc. vs. J. J. Forszt et al., Lake Superior Court Room No. Five, Hammond, Indiana, Cause No. 573-448 filed on July 26, 1973 and now pending on appeal as Court of Appeals No. 3-174 A 15 because, according to the charge, Respondent's former law firm, which included Abrahamson and Reed, formerly represented Richard L. Klaas on the same matters that were in issue in Connelly etc. vs. J. J. Forszt et al., said alleged professional misconduct having been judicially determined to be such by an order of the Lake Circuit Court in a case entitled John Bryant, Jr. et al vs. Lake County Trust Company, as Trustee et al., Lake Circuit Court No. C71-1384, Gary Superior Court Judge, James T. Moody, Special Judge, the purported misconduct in this instance consisting of making an unauthorized disclosure of previously undisclosed privileged information to the prejudice of the former law firm's alleged client, Richard L. Klaas (Count V); a criminal charge of common barratry in soliciting one Russell C. Hopper to act as a class representative in the

case of Connelly et al. vs. J.J. Forszt et al., supra, (Count VI); procuring the preparation and circulation of a letter over the signature of Respondent's client Martin J. Connelly, in the case of Connelly etc. vs. J.J. Forszt et al. containing laudatory statements about Respondent as an alleged "indirect solicitation of employment as an attorney" (Count VII); a charge of criminal assault on Attorney William Spangler, on May 6, 1971, (Count VIII); criminal or civil slander of Hammond Attorney G. Edward McHie in calling said attorney "a little, yellow son-of-a-bitch: on an unspecified date (Count IX); alleged criminal or civil slander of Hammond Attorney Richard W. Johnson, Auburn Attorney Winslow Van Horne, and Warren Circuit Court Judge Robert M. Hall during a hearing in the Lake Superior Court Room No. One, Hammond, Indiana, on March 24, 1974 in the case of Van Horne vs. Squarcy, Lake Superior Court No. 174-292 (Count X); a charge of criminal disorderly conduct during a deposition being taken in the case of Herschbach vs. Hershbach et al., Jasper Circuit Court No. 286-70, in insulting a witness and Gary Attorney John P. McQuillan (Count XI); a charge of criminal contempt of Court in publicly disseminating copies of a legal brief on June 10, 1974 containing prohibited, extra-judicial statements concerning pending litigation being the case of John Bryant Jr. et al. vs. Lake County Trust

Company as Trustee et al, Lake Circuit Court No. C71-1384, supra, in which proceedings Respondent's former employees, associates and partners, Abrahamson and Reed, purported to represent Lake County Trust Company, as Trustee under Trust No. 1653 (Count XII); a charge of criminal contempt of Court and/or libel committed on or about July 1, 1974 consisting of the releasing of a letter to the press attacking a ruling made by Special Judge John F. Moody (sic) in the case of Bryant Jr. et al vs. Lake County Trust Company et al., supra, said letter consisting of the making of a false accusation against a judicial officer (Count XIII); a charge of criminal contempt and/or libel committed on or about August 8, 1974 in releasing a letter impugning the integrity of Judge James T. Moody through false, groundless and unmeritorious charges (Count XIV); criminal contempt of Court and/or slander committed in the Hammond City Court during closing argument in the case of State vs. Indiana Harbor Belt Railroad Company in making false, misleading and prejudicial accusations about the close connection between Special Judge John Stanish and the Hammond Police Department (Count XV); a charge of filing and prosecuting a vexatious and unmeritorious lawsuit on May 3, 1974 in the Lake Superior Court Room No. One, Hammond, Indiana on behalf of the Woodmar Realty Company as plaintiff, said case being entitled

Woodmar Realty Company vs. S. C. Ennis and Company, Inc. et al., Lake Superior Court Room No. One, Cause No. 174-439 (Count XVI); a charge of causing needless delay in the case of DuBois vs. Union Trust Company of Indianapolis et al., Jasper Circuit Court No. 197-60, on October 12, 1973 by calling the Court's attention to the fact that the successors in interest of the Penn Central Transportation Company had not been substituted by said defendant (Count XVII); a charge of direct contempt of Court committed on October 12, 1973 in the case of DuBois vs. Union Trust Company of Indianapolis, et al., Jasper Circuit Court, Cause No. 197-60, said contempt consisting of calling the Judge's threatened sanctions "bunk" and statements that he (Respondent) would "waltz" Judge West down to the Disciplinary Commission (Count XVIII); a charge that Respondent, on or about March of 1970, procured a loan of $7500 in the name of his firm, Crumpacker and Abrahamson, that the proceeds of the loan were deposited in the firm's trust account at the Calumet National Bank and that Respondent then drew three checks on the account payable to himself in the amount of $7600 and deposited said checks in the law firm's capital account in the Calumet National Bank, that Respondent then drew a check to himself for $7600 on said capital account and deposited said check in his personal

account with the notation that said check was drawn for the payment of taxes and that said conduct involved deceit and the failure to preserve the identity of funds and property of a client (Count XIX); and a charge of alleged failure on the part of Respondent to pay $1,750.00 less one-third (1/3) attorneys fees, to Harold Abrahamson's client Morris Victor in connection with the case of Victor vs. Sylvester et al., Porter Superior Court, Cause No. 70 PSC 300, said Harold Abrahamson, being a former employee, associate and partner of Respondent (Count XX).

(3) At the time the twenty count information or indictment was filed, to-wit: September 17, 1974, Respondent was actively engaged in the practice of law with offices at 300 Hammond Building, Hammond, Indiana and a substantial number of employees are dependent upon Respondent and his law practice for their salaries, Social Security payments, withholding taxes, etc. In addition to other professional obligations involving heavy professional responsibilities, Respondent Owen W. Crumpacker is, by written contract, (having received retainer fees) obliged to represent landowners and prosecute the rights of the landowners to fair and just compensation in actions presently pending wherein the State of Indiana, through the State Highway Department, has taken possession of

valuable lands in Porter County, Indiana to-wit: State vs. Portage Land Corporation, LaPorte Circuit Court, Cause No. 32494; State vs. Leona Anderson Stater, Porter Superior Court, 68 PSC 604; State vs. DeVries, Porter Superior Court Cause No. 69 PSC 496; State vs. Maneikis, Porter Superior Court, Cause No. 68 PSC 509; State vs. Franklin Saemann, Porter Superior Court, Cause No. 68 PSC 463; State vs. Edith & Walter Thornton, Lake Circuit Court, Cause No. C71-653; State vs. Mercantile National Bank, as Trustee, Lake Circuit Court, Cause No. C71-652; and others. Prior to January 1, 1973, Respondent Owen W. Crumpacker had, in good faith, contracted with landowners and has invested considerable money (advanced by the landowners_ in purchasing maps, plats, title information, deeds, etc. in preparation for forthcoming trials. In addition, Respondent Owen Crumpacker has invested considerable sums of money in office supplies, books, equipment, stationery, etc. devoted to the practice of law. Said Admission and Discipline Rule 23 and the procedures adopted by the Disciplinary Commission thereunder undertake to compel and force a breach of Respondent's contract rights and obligations, and a confiscation of his property rights and interests, subjecting him to great losses and damage without any remedy. Further, his employees, wholly without fault, are deprived of their property rights.

(4) Respondent is presently charged further with the duty and obligation of representing the landowners in the U.S. District Court for the Northern District of Indiana and the U.S. Court of Appeals for the Seventh Circuit in approximately ten (10) pending cases in which the Government of the United States is seeking to acquire valuable lands from their owners for an alleged public purpose under the Indiana Dunes National Lakeshore Act. Respondent Owen W. Crumpacker is presently charged with the full responsibility of representing the landowners and in presenting their defenses and objections, both below and on appeal. These obligations were assumed in good faith prior to January 1, 1973 when the first set of disciplinary proceedings against Respondent were released. Three of the condemnation cases are presently pending in the U.S. Court of Appeals for the Seventh Circuit. They involve substantial expenditures of time and money. The landowners have no means or method of protecting their rights and interests if their attorney, Respondent Owen W. Crumpacker, is successfully disbarred by the Disciplinary Commission pursuant to the twenty-count information and/or indictment. They, also, will suffer substantial financial losses without any remedy or means of protecting their remaining rights and interests.

(6) Respondent Owen W. Crumpacker is charged with the responsibility of looking after, protecting and prosecuting cases for the Woodmar Realty Company, an Indiana corporation, and its stockholders. Respondent Owen W. Crumpacker has represented said Woodmar Realty Company ever since January 13, 1941 when reorganization proceedings were instituted against it by creditors' petition, and through and including the date of the dismissal of the proceedings by order of Milwaukee Federal Judge Robert E. Tehan on May 16, 1969. Respondent Owen W. Crumpacker has participated in hearings in this litigation covering innumerable court days. He has prepared, served and filed printed briefs in not less than seven (7) appeals. He prepared and prosecuted more than nine (9) original actions in mandamus against Milwaukee Federal Judge Robert E. Tehan. He is presently prosecuting a Two and A Half Million Dollar damage suit for and on behalf of the Woodmar Realty Company and its stockholders in the Lake Superior Court Room No. One, Cause No. 174-439 thereof. The case was filed on May 3, 1974. In addition, the Woodmar Realty Company is the sole claimant to a fund in the amount of One Hundred Ten Thousand Dollars ($110,000.00) in the hands of a Successor-Trustee, in Cause No. 51815, Lake Superior Court, Hammond, Indiana, and is the sole claimant to Forty-Nine Thousand Dollars ($49,000.00) in the custody of

the Administrator of Courts in the Supreme Court Building in Washington, D.C. As the Disciplinary Commission is aware, these valuable rights will be lost to the parties in interest if Respondent Owen W. Crumpacker is disbarred under the procedures adopted by the Supreme Court on June 23, 1971 and the procedures instituted by the Disciplinary Commission.

(7) Respondent Owen W. Crumpacker has been and is being proceeded against and disbarred without having been accorded the right to confront witnesses, the right to preliminary hearings, the right to a jury trial with reference to the deprivation of his property rights and his right to pursue a livelihood, his right to equal protection of the laws afforded to other citizens with reference to his property rights and liberty, and without the right to a trial and due process of law as established by the Constitution of the United States and Rules of Civil and Criminal Procedure afforded to all other citizens in the State of Indiana

* * * * * * * * * * *

(9) The procedures adopted by the Disciplinary Commission in order to disbar Respondent are violative of the Fourteenth Amendment (due process) to the U. S. Constitution. The initial investigation was undertaken at the instance of Hammond Attorney Edmond J. Leeney on or prior to March 10, 1972. Said Edmond J. Leeney is and for many years

has been the personal attorney for Charles Levin, law partner of Disciplinary Commission Chairman Rudolph Val Dawson. Both Charles Levin and Edmond J. Leeney are among the principal actors in the Woodmar Realty Company reorganization, U.S.D.C. No. 3151, described in August of 1961 by the late Franklin Riter, a distinguished member of the Board of Governors of the American Bar Association, and a member of the Rules Committee of the U.S. Supreme Court as "so dreadful a story of judicial dereliction that it is impossible to find a sequel." Leeney and Levin, following interviews by a nationally known investigative newspaper reporter with reference to the handling by Leeney and Floyd R. Murray of an escrow account in the Mercantile National Bank of Indiana where they had deposited approximately Sixty-Five Thousand Dollars of the Woodmar Realty Company's cash assets, induced the Supreme Court of Indiana to dismiss a pending appeal, being the case of Armina M. Thorpe vs. Straley Thorpe, Indiana Supreme Court No. 770 S 141. Leeney, who had withdrawn his appearance as an attorney in the case, corresponded, ex parte, with the members of the Supreme Court of Indiana advising the Justices that Respondent had perpetrated a serious fraud on the Supreme Court, the State of Indiana, and the Estate Tax Division of the Treasury Department of

the U.S. in procuring an order, in January of 1972, reversing the divorce decree rendered by the Lake Superior Court Room No. Three in Gary on February 8 and October 20, 1966. The dismissal of her appeal without a hearing induced the appellant, Armina M. Thorpe, to make inquiry of the Attorney General Theodore L. Sendak. Thereupon, said Attorney General Sendak referred Armina Thorpe's inquiry to one John B. Ramming, the Executive Secretary of the Disciplinary Commission, where the Attorney General's son was employed as a law clerk. Ramming, instead of undertaking to investigate Armina M. Thorpe's complaint, directed two agents, Paul Beam and Cecil Melvin, to conduct a secret investigation into the charges against Respondent made by Edmond J. Leeney in his letter to the Supreme Court of Indiana under date of March 10, 1972. Paul Beam, an attorney and employee of the Indiana State Bar Association, acted as a "volunteer" investigator for the Disciplinary Commission. Cecil Melvin, retired State Policeman on pension, was employed by the Disciplinary Commission on or about February 1, 1972 to conduct secret and confidential investigations into the conduct of members of the Bar of the Supreme Court of Indiana. Beam's salary and expenses are and were paid out of annual dues paid by members of the Indiana State Bar Association. Melvin is paid

from a fund created by an annual fee of $15.00 per lawyer paid to the Clerk of the Supreme Court for the privilege of practicing law in Indiana. Neither secret agents Paul Beam nor Cecil Melvin have or had any legal or statutory authority to conduct private and surreptitious investigations into the professional affairs of members of the Bar of the Supreme Court of Indiana. In April and/or May of 1972, Paul Beam and Cecil Melvin, acting as confidential agents of the Disciplinary Commission, came to Hammond for the purpose of conducting a secret investigation into the Leeney charges notwithstanding the fact that said Edmond J. Leeney desired to keep anonymous by failing and refusing to sign and file an official, formal complaint with the Disciplinary Commission. The two secret agents interviewed Leeney in Hammond and Leeney's associate in the case of Armina Thorpe vs. Straley Thorpe, to-wit: John Skinner, a Crown Point attorney, as well as the late Straley Thorpe's law partner, Byron Bamber. They scrupulously avoided contacting Respondent, his client, Armina Thorpe, the attorney for the Estate of Straley M. Thorpe, James K. Whitaker, or Judge Cordell C. Pinkerton, in whose Court a substantial portion of the gross fraud charged by Leeney had allegedly occurred. Approximately eight months after the Beam-Melvin investigation, and on or about January 10, 1973, Executive Secretary John B. Ramming signed and

swore to a formal complaint against Respondent allegedly based upon the serious charges of fraud as set forth in the letter of Edmond J. Leeney. These charges were promptly denied in writing. Despite repeated requests by Respondent, the Disciplinary Commission has at all times failed and refused to either dismiss the January 10, 1973 complaint or file the same in the Supreme Court where the falsity and malicious character of the charges could be demonstrated by Respondent.

* * * * * * * * * *

(11) Kenneth D. Reed, and his law partner Harold Abrahamson, undertook to furnish their colleague, Saul I. Ruman, with alleged information and evidence of professional misconduct on the part of Respondent. Saul I. Ruman, with the aid and assistance of Kenneth D. Reed, drafted ten separate counts of alleged misconduct and filed the same with the Disciplinary Commission on September 25, 1973. In January of 1974, Harold Abrahamson drafted and filed a further charge for and on behalf of his client, Morris Victor. On June 24, 1974, Kenneth D. Reed procured the rubber stamp signature of Special Judge James T. Moody on "FINDINGS OF FACT," "CONCLUSIONS OF LAW," and "JUDGMENT, ORDER AND DECREE" purporting to find Respondent guilty of a "conflict of interest" in undertaking to appear for Martin J. Connelly and Dorothy M. Connelly as injunction defendants in a

proceeding instituted by Saul I. Ruman in said Cause No. C71-1384 of the Lake Circuit Court to enjoin the Connellys from interfering with a "COMPROMISE AGREEMENT" entered into by and between Kenneth D. Reed, Saul I. Ruman, County Attorney Joseph L. Skozen and Assistant County Attorney William J. Muha eliminating Saul I. Ruman's three lawsuits and approving the fraudulent declaratory judgment procured on August 6, 1971 in the Lake Superior Court Room No. Five. The draft as prepared by Reed and submitted to Special Judge James T. Moody includes a provision directing that the Findings be sent to the Disciplinary Commission. On June 24, 1974 when Judge Moody rubber-stamped Reed's tendered Findings, the Indiana Harbor law firm of Given, Dawson & Cappas had already been furnished with the Saul I. Ruman-Kenneth D. Reed complaint of September 25, 1973, which the law firm was redrafting as a matter of convenience to the Disciplinary Commission because the Disciplinary Commission was shorthanded through the resignation of Executive Secretary John B. Ramming. Saul I. Ruman, Kenneth D. Reed and Harold Abrahamson were fully aware of the activities of Given, Dawson & Cappas when Kenneth D. Reed prepared the June 24, 1974 decision for Judge Moody. Thereafter, Harold Abrahamson and Kenneth D. Reed, on or about July 5, 1974, had their client, Richard L. Klaas, (also one of the 42 defendants in the

Connelly lawsuit) sign an additional complaint against Respondent predicated upon Judge Moody's purported decision of June 24, 1974 in Lake Circuit Court Cause No. C71-1384. In August of 1974, Cecil Melvin and Disciplinary Commission law clerk Tom Jackson made a further trip to Hammond to interview the lawyers involved in the litigation referred to in the draft of the complaint prepared by Given, Dawson & Cappas in May. Following the August interviews, the law clerk, Tom Jackson, redrafted the complaint in its present form and caused the same to be filed in the Supreme Court on September 17, 1974.

(12) Amendment XIV to the Constitution of the United States provides in pertinent part as follows:

> "Section 1.
>
> * * * * * * * *
>
> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Amendment V to the Constitution of the United States provides in pertinent part as follows:

> "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment

> of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Amendment VI to the Constitution of the United States reads in pertinent part as follows:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence."

The Constitution of the State of Indiana provides in pertinent part as follows:

> "Section 9. Free Speech and writing. No law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write or print, freely, on any subject whatever; but for the abuse of that right, every person shall be responsible."

"Section 10. The truth in libel. In all prosecutions for libel, the truth of the matters alleged to be libellous may be given in justification."

"Section 12. Courts open - Due course of law - Administration of Justice. All Courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay."

"Section 13. Rights of accused. In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, in the county in which the offense shall been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor."

"Section 19. Jury in criminal cases -- Right to determine law and facts. -- In all criminal cases whatever, the jury shall have the right to determine the law and the facts."

"Section 20. Trial by jury inviolate in civil cases. In all civil cases, the right of trial by jury shall remain inviolate."

(13) In Counts I and II of the indictment or

information, Respondent Owen W. Crumpacker is charged with criminal offenses committed in the Court of Appeals of Indiana on March 12, 1973 in, allegedly, making a deliberate misrepresentation of authority to a Court of Law prejudicial to the orderly administration of justice and in making false statements, in writing, wherein Respondent "falsely stated under oath that he had authority to act as counsel for said James R. Dedelow, when in fact he had no authority; that such conduct by Respondent is violative of Disciplinary Rules, is illegal conduct constituting perjury, is a deceitful misrepresentation to a Court of Law and is prejudicial to the administration of justice." Burns' Indiana Statutes, Volume 4, Part 2, Sections 10-3801 through 10-3803 define the crime of perjury as charged in the information and/or indictment. Since the offenses charged were committed in the presence of the Court of Appeals, they constitute a direct contempt of Court as defined in Burns' Indiana Statutes, Annotated, Title 34, Chapter 7, Section 34-4-7-1. Such acts, if true, constitute a criminal contempt. Dale v. State, (1926) 198 Ind. 110, 150 N.E. 781, 49 ALR 647. Respondent is entitled to be tried in the Marion County Criminal Court with a jury trial. Under Burns' Indiana Statutes, Title 34, Section 34-4-7-7, Respondent is entitled to a trial for direct

contempt with a right of appeal to the Supreme Court of Indiana if he is found guilty. The attempt to deny Respondent of his constitutional rights as hereinabove defined, through a hearing officer and an abortive hearing without a jury trial and without a right of appeal constitute a denial of due process and a denial to Respondent of his right to equal protection under the law.

(14) In Count IV of the information or indictment, Respondent Owen W. Crumpacker is charged with the criminal offense of conversion of goods as defined by the Burns' Indiana Statutes, Volume 4, Part 2 Section 10-1704. Neither Abrahamson and Reed, nor any former client, have instituted any proceedings or claim under Burns' 10-1704. Respondent is entitled to a full-blown trial before a common law jury under the privileges and immunities guaranteed him under the United States and Indiana Constitutions. Admission and Disciplinary Rule 23 and the procedures adopted by the Disciplinary Commission against your Respondent deny him of his constitutional guarantees.

(15) In Count VI, Respondent is charged with the crime of being a common barrator as defined by Burns' Indiana Statutes, Volume 4, Part 2, Section 10-3108. Respondent has not been either charged with, tried, or found guilty of the offense charged in Count VI. He is entitled to be charged

with the crime and tried in the Lake Superior Court, Criminal Division, with the privileges and immunities afforded him under the Constitutions of the United States and the State of Indiana like any other citizen charged with the same crime. The Supreme Court Admission and Disciplinary Rule 23 and the procedures adopted thereunder are violative of the Constitutions of both the United States and the State of Indiana as hereinabove provided.

(16) In Count VII, Respondent is charged with conspiring with Martin J. Connelly to solicit law business in violation of Burns' Indiana Statutes, Volume 4, Part 2, Section 10-3110. Respondent is entitled to be formally charged with conspiracy to commit the offense and tried in the Lake Superior Court, Criminal Division, under the privileges and immunities guaranteed any and all citizens and residents of Lake County, Indiana. Admission and Disciplinary Rule 23 and the procedures adopted by the Disciplinary Commission are in contravention of the provisions of the U.S. Constitution and the Indiana Constitution as hereinabove set forth.

(17) In Count VIII of the information or indictment, Respondent Owen W. Crumpacker is charged with commiting an assault on William S. Spangler on May 6, 1971 as defined by Burns' Indiana

Statutes, Volume 4, Part 2, Section 10-402. Admission and Disciplinary Rule 23 and the procedures adopted by the Disciplinary Commission are violative of Respondent's constitutional right to be charged with the crime of assault by the Prosecuting Attorney and tried in the Lake Superior Court, Criminal Division, for the offense, with the right of appeal, like any other citizen and resident of the State of Indiana charged with the crime of assault. Admission and Discipline Rule 23 and the procedures adopted by the Disciplinary Commission are violative of Respondent's constitutional rights as hereinbefore set forth.

(18) In Count IX of the information and indictment, Respondent is charged with the crime of slander as defined by Burns' Indiana Statutes, Volume 4, Part 2, Section 10-3203. Admission and Disciplinary Rule 23 and the procedures adopted by the Disciplinary Commission against Respondent are unconstitutional as constituting a denial of Respondent's rights to be charged and tried for the alleged offense in the Lake Superior Court, Criminal Division, subject to the privileges and immunities of any other citizen and/or resident of the State of Indiana charged with the crime of slander.

(19) In Count X, Respondent is charged with the crime of slander on March 24, 1974 in the Lake Superior Court, Room No. One, in Hammond, Indiana

disbarred as a punishment for contempt ex parte Smith (1867) 28 Ind. 47. Respondent is entitled to be charged and tried for the offense with the right of appeal as provided for in Burns' Title 34, Section 34-4-7-7. Admission and Disciplinary Rule 23 and the procedures adopted thereunder are unconstitutional in that they deny Respondent his right to due process of law and equal protection of the law. Like any other citizen, he is entitled to be charged with the offense and tried in accordance with the procedures specified by the legislature.

(22) In Counts XIII and XIV of the indictment and/or information, Respondent is charged with criminal libel as defined in Burns' Indiana Statutes, Volume 4, Part 2, Section 10-3201. In addition, the letters of July 1, 1974 and August 8, 1974 as described may constitute the offense of indirect contempt as defined by Burns' Title 34, Section 34-4-7-5. The punishment for contempt of Court is set forth in Burns' Indiana Statutes, Title 34, Section 34-4-7-6. Procedures to be followed are set forth in Burns', Title 34, Sections 34-4-7-8, 34-4-7-9, 34-4-8-1, and 34-4-8-2. Admission and Discipline Rule 23 and the procedures adopted thereunder are unconstitutional in that Respondent is denied due process and equal protection of the laws. He is entitled to be

during a hearing in the case of Van Horne vs. Squarcy, Lake Superior Court No. 174-292. Admission and Discipline Rule 23 and the procedures adopted by the Disciplinary Commission against your Respondent deny him of the right to be charged with the crime of criminal slander as defined in Burns' Indiana Statutes 10-3202, supra, and tried on the charge in the Lake Superior Court, Criminal Division, as any other citizen and resident of Lake County charged with such a crime.

(20) In Count XI, Respondent is charged with the criminal offense of disorderly conduct, at an undescribed time, in an undescribed place, as defined by Burns' Indiana Statutes, Volume 4, Part 2, Section 10-1510. Morris v. State 227 Ind. 630, 88 N.E.2d 328. Admission and Disciplinary Rule 23 and procedures adopted thereunder constitute a denial of Respondent's right to due process of law and deny him equal protection of the law by affording him the right to be indicted in the county where the disorderly conduct occurred and to be tried therein with the privileges and immunities specified in paragraph (12), supra.

(21) In Count XII, Respondent is charged with indirect contempt as defined by Burns' Title 34, Section 34-4-7-5. Zuver v. State (1919) 188 Ind. 660, 121 N.E. 828. Section 34-4-7-6 privides for the punishment. Respondent cannot be summarily

proceeded against in the Lake Superior Court, Criminal Division, by affidavit and/or indictment and to be tried under the privileges and immunities afforded all other citizens in Lake County.

(23) In Count XV of the information and/or indictment, Respondent is charged with the crime of slander as defined in Burns' Indiana Statutes, Volume 4, Part 2, Section 10-3203. Further, the allegations, if true, would or might constitute criminal contempt of Court as defined by Burns' Indiana Statutes, Title 34, Section 34-4-7-1. Admission and Discipline Rule 23 and the procedures adopted thereunder are unconstitutional in that Respondent is denied due process and equal protection of the laws. He is entitled, as of right, to be proceeded against in the Lake County Superior Court, Criminal Division, or in the Lake Circuit Court and to be given the privileges and immunities afforded all other citizens charged with the offense. Necessarily, he denies making any false accusations against Special Judge John Stanish in the Hammond City Court as alleged.

(24) In Count XVIII of the information and/or indictment, Respondent is charged with statements made on October 12, 1973, which are alleged to constitute a direct contempt of court as defined by Burns' Indiana Statutes, Title 34, Sections 34-4-7-1 and 34-4-7-6. Respondent is and was

entitled to be arraigned for direct contempt as provided for in Burns' Indiana Statutes, Title 34, Section 34-4-7-7. Admission and Discipline Rule 23 and the procedures adopted by the Disciplinary Commission thereunder are unconstitutional in that they deny Respondent his right to be charged with direct contempt in the Jasper Circuit Court and to defend himself with the right of an appeal, in the manner and means set forth in the statute.

WHEREFORE, Respondent prays that, upon hearing, a finding of not guilty be entered on the Verified Complaint for Disciplinary Action, or in the alternative, Findings of Fact, Conclusions of Law and a Judgment in favor of Respondent and against the Disciplinary Commission be entered.

/s/ Richard A. Miller
Richard A. Miller, Esq.

/s/ George E. Brown, Jr.
George E. Brown, Jr., Esq.
Attorneys for Respondent.

EXCERPTS FROM THE
VERIFIED MOTION FOR RELIEF
FROM AND RECONSIDERATION
OF THE DISCIPLINARY ACTION
ENTERED ON NOVEMBER 29, 1978,
SERVED AND FILED ON FEBRUARY 10, 1979

(4) Respondent alleges that he has been denied due process of law as guaranteed him under the 1st and 14th Amendments to the United States Constitution by the Disciplinary Action of November 29, 1978, in each of the following particulars:

(a) The twenty-seven (27) page per curiam "Disciplinary Action" was entered without notice or hearing and in direct violation of the provisions of A & D Rule 23, Section 15. Supreme Court Review, P (c), reading in pertinent part as follows:

"(c) In the event that this Court grants a petition under this Section 15, briefs may be filed and oral ar-

guments heard, as the Court shall determine. Such briefs need not conform to the rules of this Court. Upon a review the Court shall determine whether the findings and recommendations of the hearing officer or officers are supported by sufficient evidence and shall enter its judgment, with or without opinion as the Court shall determine."

Over an extended period of time, from November 9, 1976, when the Hearing Officer, Judge Bruce W. Douglas, entered Findings of Fact, Conclusions of Law and Recommendations in Respondent's favor, through and including January , 1978, Respondent prepared, served and filed extensive objections, supported by briefs, to the petitions of complainant Saul I. Ruman and the Disciplinary Commission for a review of the hearing officer's findings. Neither the objections nor the petitions for review were ruled upon, and the Court had not granted the petitions for review under Section 15, when the twenty-seven (27) page Disciplinary

Action was filed.

(b) The hearing officer, after extensive hearings, determined that misconduct had not been proven by a preponderance of the evidence with regard to a single one of the XX counts of the amended complaint filed on June 25, 1975. ("(f) Within thirty (30) days after the conclusion of the hearing, the hearing officers shall determine whether misconduct has been proven by a preponderance of the evidence and shall submit to the Supreme Court written findings of fact. Recommendations concerning the disposition of the case may be made by the hearing officer in his discretion. A copy of said findings and any recommendations shall be served by the hearing officer on the respondent and the Executive Secretary of the disciplinary commission at the time of filing same with the Supreme

Court." A & D Rule 23, Section 14, ℙ [f]) Neither the complainant, Saul I. Ruman, nor the Disciplinary Commission questioned the sufficiency of the evidence to support the findings of fact as required by the most recent amendment of Section 15. Supreme Court Review, ℙ (c), reading in pertinent part as follows:

> "(c) In the event a party does not concur in a factual finding made by the hearing officer and asserts error in such finding in the petition for review, such party shall file with the petition for review a record of all the evidence before the hearing officer relating to this factual issue. Within thirty (30) days of the filing of the transcript, opposing parties may file such additional transcript as deemed necessary to resolve the factual issue so raised in the petition for review. Any transcript filed must be settled, signed and certified as true and correct by the hearing officer. . ."

As admitted on the face of the Disciplinary Action, the Court ignored the findings of fact, as authorized by the provisions of Section 15, and relied upon

recitations of evidence from a brief (or briefs) prepared in Hammond, Indiana, after the record and exhibits filed by Judge Bruce W. Douglas on November 9, 1976, were delivered by the commission's attorney, David Hughes, to the complainant, Saul I. Ruman, for the use of Hammond attorneys Harold Abrahamson and Kenneth D. Reed, who were the major fabricators of the XX count amended disciplinary complaint.

(c) Respondent has been denied due process of law under the 14th Amendment in that the Court has taken away his means of earning a living without having accorded him the benefit of a judicial determination of the facts by a judge who had conducted the trial, weighed the testimony, observed the witnesses before him and determined what has been proven and what has not been proven. It ap-

pears on the face of the Disciplinary Action that the Court has undertaken to make its own factual determinations without having seen the witnesses, heard their testimony and weighed the evidence in the manner provided for by the law.

(d) Respondent has been denied due process of law and equal protection of the law in that the Court has failed and refused to follow all of its prior decisions on the subject of necessity of giving full credence to the findings of its hearing officer on disputed questions of fact. In no instance since A & D Rule 23 was adopted has the Court ignored the findings of the hearing officer appointed by it to hear and determine the facts. The Court, in the present instance, has ignored the findings of the hearing officer and has, erroneously, entered findings of its own without a judicial de-

termination of the facts.

(e) The Court, in entering its per curiam Disciplinary Action on November 29, 1978, has ignored all of the pleadings and papers on file in the cause, has ignored the court reporter's transcript of the proceedings in open court during the extensive hearings that commenced on September 29, 1975, and were concluded on December 3, 1975, has ignored the thousands upon thousands of pages of documentary evidence, and has filed its twenty-seven page Disciplinary Action without any consideration of the extensive record filed by Honorable Bruce W. Douglas in support of the Findings of Fact.

(5) Respondent has been denied due process of law in that he has not had the benefit of a fair and impartial tribunal. The complainant, Hammond Attorney Saul I. Ruman, is and has been

since November 19, 1975, the attorney for Judge Alfred J. Pivarnik in a $600,000.00 libel and slander suit filed in the Lake Superior Court, Room No. Four, Gary, under cause no. 475-2328, entitled Alfred J. Pivarnik, et al. vs. Alex Bottos, Elmer L. Jacobsen, Owen W. Crumpacker, Sherman Skolnick and David Glenn Hoffman. On August 21, 1978, Respondent, by his attorney, Richard A. Miller, and as attorney for Elmer L. Jacobsen, former Director of the Northwest Indiana Crime Commission, had filed motions requiring Judge Alfred J. Pivarnik to produce his income tax returns and other financial data. Further, complainant Saul I. Ruman had agreed to produce Alfred J. Pivarnik for discovery deposition purposes in preparation for the trial of the libel and slander suit assigned for trial before a jury on April

23, 1979. Copies of the pertinent pleadings and motion to produce are attached hereto and made a part hereof as Exhibits "C," "D," "E," and "F." In addition, Respondent, on November 29, 1978, was the attorney of record in a civil rights action pending in the United States District Court for the Northern District of Indiana, Hammond Division, under cause no. H77-270, in a proceedings captioned Elmer L. Jacobsen vs. Alfred J. Pivarnik, et al., a copy of the complaint in said action being attached hereto and made a part hereof as Exhibit "G." Further, on November 29, 1978, Respondent was the attorney of record for Elmer L. Jacobsen in an appeal from a decision entered by Judge Alfred J. Pivarnik as Judge of the Porter Superior Court, on August 6, 1975, in a criminal contempt case. Respondent's client, Elmer L. Jacobsen, was

found guilty of criminal contempt and sentenced to thirty-two (32) days in the Porter County Jail without bond. Judge Pivarnik's attorney, Saul I. Ruman, and his associate, Richard J. Lesniak, a law partner of Rudolph Val Dawson, Chairman of the Disciplinary Commission, had intervened on July 21, 1975, allegedly to assist Judge Pivarnik in the orderly disposition of the proceedings. The Court of Appeals of Indiana, on January 15, 1979, rendered a split decision with a majority opinion by George B. Hoffman, Jr., Judge, upholding the criminal contempt convictions. (Elmer L. Jacobsen, Defendant-Appellant vs. State of Indiana, Plaintiff-Appellee, Indiana Court of Appeals, Third District, Cause No. 3-1175 A 247) Prior to May 11, 1977, when Judge Alfred J. Pivarnik was sworn in as Judge of the Supreme Court of Indiana by Gover-

nor Otis R. Bowen, Respondent's client, Elmer L. Jacobsen, had filed a complaint with the Judicial Qualifications Commission of Indiana, seeking to obtain the removal of Judge Pivarnik as Judge of the Porter Circuit Court (and ex-officio judge of the Porter Superior Court) for various acts of alleged misconduct. Among other acts of judicial misfeasance charged, was the issuance of press releases by Judge Alfred J. Pivarnik and his attorney, Saul I. Ruman, in connection with the proposed filing of a libel and slander suit in his own court at Valparaiso, against Reverend ROGER Voegtlin of the Fairhaven Baptist Church, Reverend James Vineyard of the First Baptist Church of Hammond and the First Baptist Church of Hammond, seeking damages in the amount of $1,500,000.00 for alleged conspiracy to libel and slander said

Judge Pivarnik. Complainant Saul I. Ruman has prosecuted the various legal actions for and on behalf of Judge Alfred J. Pivarnik without cost or expense to either the Judge or his family. In the proceedings instituted against Reverend Roger Voegtlin, et al., presently pending in the Jasper Circuit Court at Rensselaer, Judge Alfred J. Pivarnik and his family contend that Respondent Owen W. Crumpacker, his former client, Elmer L. Jacobsen, Alex Bottos, Sherman H. Skolnick and David Glenn Hoffman conspired and confederated with Reverend Voegtlin, Reverend Vineyard and the First Baptist Church of Hammond to maliciously libel and defame Judge Pivarnik and his family. All of these facts and circumstances were fully known to the Court when the Disciplinary Action was filed on November 29, 1978.

(6) Respondent respectfully represents that the Disciplinary Action is replete with material errors of fact which would have been fully demonstrated by Respondent and his counsel had they been given a hearing before the Court. For example, the Court misconstrues and misstates the facts alleged by way of the affirmative defenses and the volumes of documentary evidence, which the Court has not looked at, supporting each and every allegation of the affirmative defenses. For the purpose of establishing, generally, the material errors which the Court has ignored, Respondent has attached representative excerpts from the record, as Exhibits "H" and "I." Contrary to the statements in the Disciplinary Action, the authors of the Disciplinary Commission's brief have ignored not only the testimony of the witnesses on the

issues presented, but have failed to either include or refer to the documentary evidence offered, examined and received in evidence by the hearing officer.